

MINNEAPOLIS CITY COUNCIL OFFICIAL PROCEEDINGS

REGULAR MEETING OF DECEMBER 13, 2002

(Published December 21, 2002,
in *Finance and Commerce*)

Council Chamber
350 South 5th Street
Minneapolis, Minnesota
December 13, 2002 - 9:30 a.m.
Council President Ostrow in the Chair.

Present - Council Members Johnson, Colvin Roy, Zimmermann, Schiff, Zerby, Lilligren, Johnson Lee, Niziolek, Benson, Goodman, Lane, President Ostrow.

Lilligren moved acceptance of the minutes of the regular meeting held November 22, and the adjourned sessions held November 27 and December 9, 2002. Seconded.

Adopted upon a voice vote.

Lilligren moved referral of petitions and communications and reports of the City officers to the proper Council committees and departments. Seconded.

Adopted upon a voice vote.

PETITIONS AND COMMUNICATIONS

COMMUNITY DEVELOPMENT:

COMMUNITY DEVELOPMENT AGENCY, MINNEAPOLIS (MCDA) (268408)

Heart of the Beast Theater, Inc: Delete from Agenda.

COORDINATOR (268409)

Focus Minneapolis Initiative: Status Report.

COMMUNITY DEVELOPMENT (See Rep):

COMMUNITY DEVELOPMENT AGENCY, MINNEAPOLIS (MCDA) (268410)

Minnesota Cardiovascular Research Institute (2901 Elliot Avenue S): Issuance of industrial development revenue bonds.

Housing Strategic Planning for 2003: Proceed with Request for Proposals process based on current criteria and consider changing the current criteria prior to the second cycle of funding in 2003.

Second Street Loft Apartments Project: Issuance of Senior Bonds and Subordinate Bonds for project.

COMMUNITY DEVELOPMENT and PUBLIC SAFETY AND REGULATORY SERVICES and TRANSPORTATION & PUBLIC WORKS and ZONING AND PLANNING (See Rep):

COMMUNITY DEVELOPMENT AGENCY, MINNEAPOLIS (MCDA) (268411)

Northeast Minneapolis Arts District: Establish district.

COMMUNITY DEVELOPMENT and WAYS & MEANS/BUDGET (See Rep):

COMMUNITY DEVELOPMENT AGENCY, MINNEAPOLIS (MCDA) (268412)

Upper Harbor River Terminal: Increase 2002 Annual Operating Budget for terminal.

Lake Street Center Project: Authorize payment to STA Associates, Inc and STA Development Corporation to close on project-related properties.

Volunteers of America of Minnesota Project (1900 Central Avenue): Adopt Redevelopment Plan, Tax Increment Finance Plan, Modification #4 to Redevelopment Plan and Modification #92 to the Common Project.

HEALTH AND HUMAN SERVICES & WAYS AND MEANS/BUDGET (See Rep):

HEALTH AND FAMILY SUPPORT SERVICES (268412.1)

Public Health Consulting Services: Contract with Anoka County for purchase of public health consulting services.

INTERGOVERNMENTAL RELATIONS:

INTERGOVERNMENTAL RELATIONS (268413)

Proposed Senate Committee Meeting Schedule for 2003 Legislative Session & Senate Structure.

INTERGOVERNMENTAL RELATIONS (See Rep):

INTERGOVERNMENTAL RELATIONS (268414)

Draft 2003 Legislative Agenda for City of Mpls.

PLANNING COMMISSION/DEPARTMENT (268415)

Wold-Chamberlain Field Joint Airport Zoning Board & Mpls-St Paul International Airport Zoning Ordinance: Indemnification & Cooperation Agreements.

PUBLIC SAFETY AND REGULATORY SERVICES (See Rep):

INSPECTIONS DEPARTMENT (268416)

Rental Dwelling License at 1718 Johnson St NE: Approve reinstatement of license to be held by Troy Martenson.

LICENSES AND CONSUMER SERVICES (268417)

Licenses: Applications.

TRANSPORTATION AND PUBLIC WORKS:

METROPOLITAN COUNCIL (268418)

Highway 55 speed: Hiawatha Light Rail Community Advisory Committee (CAC) position letter dated October 7, 2002.

TRANSPORTATION AND PUBLIC WORKS (See Rep):

COUNCIL MEMBER COLVIN ROY (268419)

2003-2009 CIP: Comments to MAC on funding level for completion of untreated homes eligible for noise mitigation under the 1996 program.

PUBLIC WORKS AND ENGINEERING (268420)

Runway 17 at MSP (Environmental Assessment for Departure Procedure): City's comments to MAC on proposed departure procedure.

McNair Av N near Penn & Broadway Aves N (Removal of barriers): Various actions and timeline to change the traffic conditions.

Minneapolis Street Lighting Policy - Standard Wood Pole System: Adopt Section I of the draft to Standard Street/Alley lighting "wood pole" system.

TRANSPORTATION AND PUBLIC WORKS and WAYS & MEANS/BUDGET (See Rep):

PUBLIC WORKS AND ENGINEERING (268421)

Parking Meter Management Plan: Approve changes to improve on-street parking.

2002 Flood Mitigation Update: Approve realignment & financial adjustment to current 2002/2003 Flood Mitigation capital appropriation.

Bid: OP #5964, by CDS Technologies, Inc. for grit removal structures.

Minneapolis Water Works Computerized Maintenance System: Authorize execution of extension of existing contract with Camp, Dresser, and McKee, Inc.

Lyndale Neighborhood Residential Lighting Project: Deny request to proceed and adopt special assessments for project.

WAYS AND MEANS BUDGET:

ATTORNEY (268422)

Office Hiring Report for January 1, 2002 through November 30, 2002.

COORDINATOR (268423)

Convention Center Expansion Project Construction Change Orders: Change management action.

WAYS AND MEANS BUDGET (See Rep):

ATTORNEY (268424)

Legal Settlements: Approve settlement of the claims of Mary Jo Iverson, Maurice Wilburn and Lanz, et al.

Legal Expenses: Reimbursement of attorney fees to Council Member Lisa Goodman.

COORDINATOR (268425)

Empowerment Zone Contracts for Human Services: Contracts with community organizations that will provide services.

Convention Center Expansion Project Construction Change Orders: Approve amendments to contracts with Shaw-Lundquist, Harris Mechanical, Premier Electric and Advance Terrazzo & Tile Co.

New Central Library Project Insurance Program: Adopt insurance program for project including contracts with AIG and Liberty Mutual for insurance.

New Central Library Project Construction Change Order: Increase contract with F. M. Frattalone Excavating and Grading.

Convention Center Security Services: Contract with Security Specialists, Inc. for exclusive event security services.

COUNCIL MEMBER SCHIFF (268426)

Equal Benefits Ordinance: Supporting information on domestic partner benefits; Substitute ordinance proposed by Council Member Johnson.

FINANCE DEPARTMENT (268427)

Convention Center Insurance: Accept quote of Zurich Insurance for the Convention Center, Talmadge Building and parking ramp and authorize staff to lock into binder for 2003 insurance.

HUMAN RESOURCES (268428)

Addition to Engineering Technician Line: Approve reclassification of Engineering Aide I (Seasonal) and incumbents to the position of Engineering Technician I (Seasonal) and establish salary for new position.

Post Retirement Health Care Savings Plan: Approve establishment of plan with the Minnesota State Retirement System.

PLANNING COMMISSION/DEPARTMENT (268429)

38th St Light Rail Transit Station: Agreement with Metropolitan Council to receive grant funds to support land use planning.

ZONING AND PLANNING (See Rep):

PLANNING COMMISSION/DEPARTMENT (268430)

Rezoning:

Goff Holdings, LLC (3601 Nicollet Ave S);

Hennepin County (for Humboldt Greenway Project, vic Humboldt Ave N between 49th & 51st Aves, W side of Girard Ave N between 49th & 51st Aves, 50th Ave N between Humboldt & Dupont Aves).

Zoning Code Text Amendments:

Domestic Partnerships: Ordinance amending Title 20, Chapter 520 re amending definition of family to include domestic partnerships.

Industrial Living Overlay District/Density Bonus: Ordinance amending Title 20, Chapter 551 reestablishing density bonus related to number of dwelling units & maximum floor area ratio in the Industrial Living Overlay District.

INSPECTIONS/BOARD OF ADJUSTMENT (268431)

Appeal:

Jim Eischens (1065-25th Ave SE): Appeal of decision of Zoning Administrator re home occupation business.

COMMISSION/DEPARTMENT (268432)

Appeals:

Jim Graham, for Ventura Village (re Project for Pride in Living, 1033 E Franklin Ave): Appeal of decision approving variances for office building renovation, w/Attachments.

Mitch Booth, for Goff Holdings, LLC (3601 Nicollet Ave S): Appeal of decision denying variances for mixed-use building.

Paul Smith (re Mpls Institute of Arts, 2400-3rd Ave S): Supplemental staff report on appeal from decision approving addition to west side of museum, w/Attachments.

RESOLUTIONS:

ELECTIONS DEPARTMENT (268433)

Ward 3: Map showing amendments to precinct boundaries and designations.

FILED:

XCEL ENERGY/NSP (268434)

Xcel Energy/NSP: Installation of pole.

KELLY & BERENS, P.A. (268435)

Metal-Matic, Inc: "Testimony of Metal-Matic, Inc. in opposition to Zoning Code text amendments" submitted by George O. Ludeke, Attorney for Metal-Matic.

**REPORTS OF
STANDING COMMITTEES**

The **COMMUNITY DEVELOPMENT** Committee submitted the following reports:

Comm Dev - Your Committee, having under consideration a request to issue industrial development revenue bonds, in an amount not to exceed \$5,000,000, to finance acquisition of equipment for the Minnesota Cardiovascular Research Institute Project located at 2901 Elliot Avenue South, and having held a public hearing on October 28, 2002 and November 25, 2002 thereon, now recommends concurrence with the recommendation of the Interim Executive Director of the Minneapolis Community Development Agency (MCDA) to approve passage and summary publication of the accompanying Resolution authorizing the issuance of industrial development revenue bonds, and the submission of an application for approval to the Minnesota Department of Trade and Economic Development, granting preliminary approval to said issuance of up to \$5,000,000 in 501(c)(3) tax-exempt revenue bonds for the project.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Resolution 2002R-456, authorizing the issuance of Industrial Development Revenue Bonds by the City, to finance equipment for the Minnesota Cardiovascular Research Institute Project located at 2901 Elliot Avenue South, was passed December 13, 2002 by the City Council and approved

December 19, 2002 by the Mayor. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2002R-456
By Goodman**

Authorizing the issuance of Industrial Development Revenue Bonds by the City of Minneapolis, pursuant to Minnesota Statutes, Section 469.152 through 469.1651 and the submission of an application for approval to the Minnesota Department of Trade and Economic Development.

Whereas, pursuant to Minnesota Statutes, Sections 469.152 through 469.1651, known as the Minnesota Municipal Industrial Development Act (the "Act"), the City of Minneapolis, Minnesota (the "Issuer") is authorized to issue revenue bonds to finance the acquisition and construction of projects, as defined in Section 469.153, Subd. 2, including any real or personal properties used or useful in connection with a revenue producing enterprise; and

Whereas, the Issuer has received a request that it issue qualified tax-exempt industrial development revenue bonds to assist Minnesota Cardiovascular Research Institute, LLC ("MnCRI"), a limited liability company whose sole member is Minneapolis Heart Institute Foundation, a nonprofit corporation and 501(c)(3) organization, in financing the acquisition by MnCRI of certain equipment necessary to conduct research at a pre-clinical cardiovascular research facility to be located at 2901 Elliot Avenue South in the City of Minneapolis (the "Project"); and

Whereas, the Project will be owned and operated by MnCRI; and

Whereas, the aggregate face amount of revenue bonds proposed to be issued to finance the Project is presently estimated not to exceed \$5,000,000; and

Whereas, MnCRI has paid and expects to pay certain expenditures (the "Reimbursement Expenditures") in connection with the Project prior to the issuance of indebtedness for the purpose of financing costs associated with the Project on a long-term basis and certain of the proceeds of the Bonds will be used to reimburse the Reimbursement Expenditures; and

Whereas, the Issuer has been advised by representatives of MnCRI that conventional, commercial financing to pay the capital cost of the Project is available only on a limited basis and at such high costs of borrowing that the economic feasibility of operating the Project would be significantly reduced; and

Whereas, a public hearing on the Project was held on October 28, 2002 and continued to November 25, 2002 after notice was published, at which public hearing all those who desired to speak were heard; and

Whereas, no public official of the Issuer has either a direct or indirect financial interest in the Project nor will any public official either directly or indirectly benefit financially from the Project.

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the Issuer hereby gives preliminary approval to the proposal of MnCRI to finance the Project pursuant to the Act through the issuance of the Issuer's qualified tax-exempt bonds (the "Bonds").

Be It Further Resolved that on the basis of information available to the Issuer it appears, and the Issuer hereby finds, that the Project constitutes properties, real and personal, used or useful in connection with a revenue producing enterprise within the meaning of Subdivision 2(b) of Section 469.153 of the Act; that the Project furthers the purposes stated in Section 469.152.

Be It Further Resolved that the Project is hereby given preliminary approval by the Issuer subject to, among other things, the approval of the Project by the Minnesota Department of Trade and Economic Development or such other state office having authority to grant approval (the "DTED"), and subject to final approval by MnCRI and the purchaser of the Bonds as to the ultimate details of the financing of the Project.

Be It Further Resolved that in accordance with Subdivision 3 of Section 469.154, the Mayor of the Issuer is hereby authorized and directed to submit the proposal for the Project to DTED requesting its

approval, and other officers, employees and agents of the Issuer are hereby authorized to provide DTED with such preliminary information as it may require.

Be It Further Resolved that MnCRI has agreed and it is hereby determined that any and all costs incurred by the Issuer in connection with the financing of the Project, whether or not the Project is carried to completion and whether or not approved by the Issuer, will be paid by MnCRI.

Be It Further Resolved that nothing in this resolution or in the documents prepared pursuant hereto shall authorize the expenditure of any Issuer funds on the Project other than the revenues derived from the Project or otherwise expressly granted to the Issuer for this purpose. The Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property or funds of the Issuer except the revenue and proceeds pledged to the payment thereof, nor shall the Issuer be subject to any liability thereon. The holder of the Bonds shall never have the right to compel any exercise of the taxing power of the Issuer to pay the outstanding principal on the Bonds or the interest thereon, or to enforce payment thereof against any property of the Issuer. The Bonds shall recite in substance that the Bonds, including interest thereon, are payable solely from the revenue and proceeds pledged to their payment. The Bonds shall not constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Comm Dev - Your Committee recommends concurrence with the recommendation of the Interim Executive Director of the Minneapolis Community Development Agency (MCDA) to approve passage and summary publication of the accompanying Resolution authorizing the issuance and sale of Revenue Refunding Bonds, pursuant to Minnesota Statutes, Chapter 462C, on behalf of Second Street Acquisition Partners Limited Partnership, and the execution of related documents, granting final approval to issue, sell and deliver Senior Bonds, in an amount not to exceed \$5,200,000 and Subordinate Bonds, in an amount not to exceed \$1,210,000 for the Second Street Loft Apartments Project.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 13, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

(Published December 17, 2002)

Resolution 2002R-457, authorizing the issuance and sale of Revenue Refunding Bonds for the Second Street Loft Apartments Project, was passed December 13, 2002 by the City Council and approved December 13, 2002 by the Mayor. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2002R-457

By Goodman

Authorizing the issuance and sale of Revenue Refunding Bonds, pursuant to Minnesota Statutes, Chapter 462C, on behalf of Second Street Acquisition Partners Limited Partnership, and the execution of related documents.

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

1. **Authority.** The City, pursuant to its Charter and the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Chapter 462C, as amended (the "Act"), is authorized to issue and sell its revenue bonds for the purpose of refinancing costs of authorized multifamily housing developments and to enter into agreements necessary or convenient in the exercise of the powers granted by the Act.

2. Authorization of Project. Second Street Acquisition Partners Limited Partnership, a Minnesota limited partnership (the "Borrower"), is the owner and operator of 39-unit multifamily housing rental facility located at 129 North Second Street in the City (the "Project"). The acquisition and rehabilitation of the Project was financed in part with the proceeds of the City's Multifamily Housing Revenue Bonds (Second Street Historical Partners Project), Series 1996 (the "Prior Bonds"). The Borrower has proposed to this Council a program (the "Program") for the issuance and sale of revenue refunding bonds in one or more series and for the loan of such proceeds to the Borrower in order to (a) refund the outstanding Prior Bonds, (b) discharge certain existing indebtedness secured by a lien on the Project, and (c) fund a reserve fund. On October 17, 2002, this Council by its Community Development Committee held a public hearing on Program, following publication of notice as required by the Act, and this Council approved the Program following the hearing.

3. Documents Presented. Forms of the following documents relating to the Bonds have been submitted to the City and are now on file in the office of the City Clerk:

(a) Loan Agreement, dated as of December 1, 2002 (the "Senior Loan Agreement"), between the City and the Borrower, whereby the City agrees to make a loan to the Borrower of the gross proceeds from the sale of the City's Variable Rate Demand Multifamily Housing Revenue Refunding Bonds (Second Street Historical Partners Project), Series 2002A and the City's Variable Rate Demand Multifamily Housing Revenue Refunding Bonds (Second Street Historical Partners Project), Taxable Series 2002B (collectively, the "Senior Bonds"), and the Borrower agrees to pay amounts in repayment of the loan sufficient to provide for the full and prompt payment of the principal of, premium, if any, and interest on the Senior Bonds; and

(b) Indenture of Trust, dated as of December 1, 2002 (the "Senior Indenture"), between the City and LaSalle Bank National Association, as Trustee, issuing the Senior Bonds and pledging certain revenues, including those to be derived from the Loan Agreement, as security for the Senior Bonds, and setting forth proposed recitals, covenants and agreements relating thereto; and

(c) Form of the Official Statement (the "Official Statement"), describing the offering of the Senior Bonds, and certain terms and provisions of the documents relating to the Senior Bonds; and

(d) Reimbursement Agreement, dated as of December 1, 2002 (the "Reimbursement Agreement"), between the Borrower and LaSalle Bank National Association, as Letter of Credit Bank, authorizing the issuance of an irrevocable, direct-pay letter of credit to secure the Senior Bonds, and obligating the Borrower to reimburse the Letter of Credit Bank for draws under the letter of credit (this document not to be executed by the City); and

(e) Remarketing Agreement, dated as of December 1, 2002 (the "Remarketing Agreement"), between the Borrower and Dougherty & Company LLC, as Remarketing Agent, setting forth the Remarketing Agent's duties with respect to setting the interest rates on the Senior Bonds (this document not to be executed by the City); and

(f) Subordinate Loan Agreement, dated as of December 1, 2002 (the "Subordinate Loan Agreement"), between the City and the Borrower, whereby the City agrees to make a loan to the Borrower of the gross proceeds from the sale of the City's Multifamily Housing Revenue Refunding Bonds (Second Street Historical Partners Project), Subordinate Series 2002C (the "Subordinate Bonds"), and the Borrower agrees to pay amounts in repayment of the loan sufficient to provide for the full and prompt payment of the principal of, premium, if any, and interest on the Subordinate Bonds; and

(g) Subordinate Indenture of Trust, dated as of December 1, 2002 (the "Subordinate Indenture"), between the City and LaSalle Bank National Association, as Trustee, issuing the Subordinate Bonds and pledging certain revenues, including those to be derived from the Loan Agreement, as security for the Bonds, and setting forth proposed recitals, covenants and agreements relating thereto; and

(h) Subordinate Combination Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents, dated as of December 1, 2002 (the "Subordinate Mortgage"), from the Borrower to the City, granting a mortgage lien on, a security interest in, and an assignment of leases and rents for the security of the Subordinate Bonds; and

(i) Assignment of Subordinate Mortgage, dated as of December 1, 2002 (the "Mortgage Assignment"), from the City to the Trustee, assigning to the Trustee for the further security of the Subordinate Bonds all of the City's right, title and interest in and to the Subordinate Mortgage; and

(j) Form of Limited Offering Memorandum (the "Limited Offering Memorandum"), describing the offering of the Subordinate Bonds, and certain terms and provisions of the documents relating to the Subordinate Bonds; and

(k) Bond Purchase Agreement (the "Bond Purchase Agreement"), between Dougherty & Company LLC (the "Underwriter"), the Borrower, and the City, providing for the purchase of the Bonds from the City by the Underwriter and setting the terms and conditions of purchase of the Senior Bonds and the Subordinate Bonds; and

(l) Amended and Restated Regulatory Agreement, dated as of December 1, 2002 (the "Regulatory Agreement"), between the City, the Trustee and the Borrower, providing that certain of the Project units be rented to low- and moderate-income tenants.

The Senior Loan Agreement, the Senior Indenture, the Subordinate Loan Agreement, the Subordinate Indenture, the Subordinate Mortgage, the Assignment of Subordinate Mortgage, the Bond Purchase Agreement and the Regulatory Agreement are collectively referred to herein as the "City Documents". The Senior Bonds and the Subordinate Bonds are collectively referred to herein as the "Bonds".

4. **Findings.** It is hereby found, determined and declared that:

(a) The Project constitutes a multifamily housing development authorized by and described in the Act.

(b) There is no litigation pending or, to the best of its knowledge, threatened against the City relating to the Project or the Bonds, the City Documents or any other document referenced herein or questioning the organization, powers or authority of the City.

(c) The execution, delivery and performance of the City's obligations under the Bonds and the City Documents do not and will not violate any charter provision, or any order of any court or other agency of government of which the City is aware or in which the City is a party, or any indenture, agreement or other instrument to which the City is a party or by which it or any of its property is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument.

(d) It is desirable that the Bonds be issued by the City upon the terms set forth in the Senior Indenture and the Subordinate Indenture (the "Indentures"), under the provisions of which the City's interests in the Senior Loan Agreement and the Subordinate Loan Agreement (the "Loan Agreements"), except for rights of the City to indemnity and repayment of expenses and advances, will be pledged to the Trustee as security for the payment of principal of, premium, if any, and interest on the Bonds.

(e) The Loan Agreements provide for payments by the Borrower to the Trustee for the account of the City of such amounts as will be sufficient to pay the principal of, premium, if any, and interest on all Bonds when due. The Loan Agreements obligate the Borrower to pay for or cause to be paid all costs of operation and maintenance of the Project, including adequate insurance, taxes and special assessments.

(f) Under the provisions of the Act, and as provided in the Loan Agreements and the Indentures, the Bonds are not to be payable from nor charged upon any funds of the City other than amounts payable by the Borrower pursuant to the Loan Agreements and related security provided in connection therewith, and moneys in the funds and accounts held by the Trustee which are pledged to the payment thereof; no owners of the Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay any of the Bonds or the interest thereon, nor to enforce payment thereof against any property of the City (other than the City's interests in the Loan Agreements and the Subordinate Mortgage assigned to the Trustee); the Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City (other than the City's interests in the Loan Agreement and the Subordinate Mortgage assigned to the Trustee); and each Bond issued under the Indentures shall recite that the Bond, including interest thereon, shall not constitute or give rise to a charge against the general credit or taxing powers of the City.

(g) The City has goals and policies to assist in the elimination of substandard housing conditions in the City and to prevent the recurrence of such conditions. These goals and policies can be furthered by housing persons of varied economic means and a wide range of incomes in the same developments and neighborhoods, as provided in Minn. Statutes, Section 462A.02, subdivision 6. Based on the Project's rental structure and tenant mix, the Project furthers such goals and policies to the extent deemed necessary by the City.

(h) This Council hereby finds, determines and declares that the refunding and redemption of the Prior Bonds for the purpose of reducing debt service costs of the Borrower furthers the purposes set forth in the Act.

5. Approval and Execution of Documents; Ratification of Acts. The forms of the City Documents, referred to in paragraph 3, are approved. This Council hereby authorized the execution and delivery of the City Documents in the name and on behalf of the City by the Mayor, the Finance Officer and the City Clerk, or other officers of the City, in substantially the form on file, but with all such changes therein, not inconsistent with the Act or other law, as may be approved by the officers executing the same, which approval shall be conclusively evidenced by the execution thereof, and then shall be delivered to the Trustee. Copies of all documents shall be delivered and filed as provided therein.

All actions of the officers, members, staff and employees of the City heretofore taken in connection with the issuance of the Bonds described herein are hereby approved, ratified and confirmed.

6. Approval, Execution and Delivery of the Bonds.

(a) The City hereby authorizes the issuance of the Senior Bonds in two series: the City of Minneapolis, Minnesota Variable Rate Demand Multifamily Housing Revenue Refunding Bonds (Second Street Historical Partners Project), Series 2002A (the "Series 2002A Bonds") and the City of Minneapolis, Minnesota Variable Rate Demand Multifamily Housing Revenue Refunding Bonds (Second Street Historical Partners Project), Taxable Series 2002B (the "Series 2002B Bonds"). The Senior Bonds shall be in an aggregate principal amount of not to exceed \$5,200,000, shall bear interest at a variable rate, and shall be in the form and upon the terms set forth or to be set forth in the Senior Indenture, as such Senior Indenture is to be executed and delivered pursuant to the provisions of this resolution, and which terms are accordingly incorporated in this resolution and made a part hereof; provided, however, that the maturities of the Senior Bonds, the interest rates thereon, and the rights of optional or mandatory redemption with respect thereto shall be only as set forth in the final form of Senior Indenture to be approved, executed and delivered by the officers of the City authorized to do so by the provisions of this Resolution, and such approval of such terms shall be conclusively evidenced by such execution and delivery. The Mayor, the Finance Officer and the City Clerk and other City Officers are hereby authorized to execute the Senior Bonds as prescribed in the Senior Indenture and to deliver them to the Trustee (which is herein designated as the authenticating agent under Minnesota Statutes, Section 475.55), together with a certified copy of this Resolution and the other documents required by Section 2.8 of the Senior Indenture, for authentication, registration and delivery to the Underwriter. As provided in the Senior Indenture, each Senior Bond shall contain a recital that it is issued pursuant to the Act, and such recital shall be conclusive evidence of the validity and regularity of the issuance thereof.

(b) The City hereby authorizes the issuance of the Subordinate Bonds in one series: the City of Minneapolis, Minnesota Multifamily Housing Revenue Refunding Bonds (Second Street Historical Partners Project), Subordinate Series 2002C. The Subordinate Bonds shall be in an aggregate principal amount of not to exceed \$1,210,000, and shall be in the form and upon the terms set forth or to be set forth in the Subordinate Indenture, as such Subordinate Indenture is to be executed and delivered pursuant to the provisions of this resolution, and which terms are accordingly incorporated in this resolution and made a part hereof; provided, however, that the maturities of the Subordinate Bonds, the interest rates thereon, and the rights of optional or mandatory redemption with respect thereto shall only be as set forth in the final form of Subordinate Indenture to be approved, executed and delivered by the officers of the City authorized to do so by the provisions of this resolution, and such approval of such terms shall be conclusively evidenced by such execution and delivery; and provided further, however, that, in no event, shall such rates of interest produce a net interest cost for the Subordinate Bonds in excess of 9% per annum. The Mayor, the Finance Officer and the City Clerk and other City Officers are hereby authorized to execute the Subordinate Bonds as prescribed in the Subordinate Indenture and to deliver them to the Trustee (which is herein designated as the authenticating agent under Minnesota Statutes, Section 475.55), together with a certified copy of this Resolution and the other documents required by Section 2.5 of the Subordinate Indenture, for authentication, registration and delivery to the Underwriter. As provided in the Subordinate Indenture, each Subordinate Bond shall contain a recital that it is issued pursuant to the Act, and such recital shall be conclusive evidence of the validity and regularity of the issuance thereof.

(c) The Underwriter has agreed pursuant to the provisions of the Bond Purchase Agreement, and subject to the conditions set forth therein, to purchase the Bonds at the purchase price stated in the Bond Purchase Agreement. Such purchase price is hereby accepted, and the sale of the Bonds to the Underwriter is hereby approved.

(d) The aggregate principal amount of the tax-exempt bonds to be issued pursuant to the authorization contained herein, consisting of the Series 2002A Bonds and the Subordinate Bonds, shall not exceed the outstanding principal amount of the Prior Bonds.

7. Offering Materials. The City authorizes, consents to, and approves of the distribution of the Official Statement relating to the Senior Bonds, substantially in the form on file with the City, and its use by the Underwriter in offering the Senior Bonds for sale to the public. The City further authorizes, consents to, and approves of the limited distribution of the Limited Offering Memorandum relating to the Subordinate Bonds, substantially in the form on file with the City, and its use by the Underwriter in making a limited offering of the Subordinate Bonds. Such offering materials (the "Offering Materials") are the sole materials consented to by the City for use in connection with the offer and sale of the Senior Bonds. The City has not been requested to participate in the preparation of or to review the Offering Materials and has not done so, and the City has made no independent investigation of the facts and statements provided herein; accordingly, the City assumes no responsibility with respect thereto, including without limitation as to matters relating to the accuracy, fairness, completeness or sufficiency of said Offering Materials.

8. Authentication of Proceedings. The Mayor, the City Clerk, the Finance Officer and the other officers of the City are hereby authorized to prepare and furnish to bond counsel and the purchaser of the Bonds, when issued, certified copies of all proceedings and records of the City relating to the Bonds, and such other affidavits and certificates as may be required to show the facts appearing from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements contained therein.

9. Redemption of Prior Bonds. The City consents to the refunding and redemption of the Prior Bonds and authorizes said refunding and redemption of the Prior Bonds on or about December 31, 2002. The City directs the trustee for the Prior Bonds to give notice of such redemption and defeasance as provided in the indenture relating to the Prior Bonds. The City further directs the Mayor, the Finance Officer and the City Clerk to take all necessary steps to defease the Prior Bonds, to discharge the lien of the Prior Bonds Indenture, and to release all other liens related to the Prior Bonds.

10. Nature of City's Obligations. All covenants, stipulations, obligations and agreements of the City contained in this resolution and the aforementioned documents shall be deemed to be the covenants, stipulations, obligations and agreements of the City to the full extent authorized or permitted by law, and all such covenants, stipulations, obligations and agreements shall be binding upon the City. Except as otherwise provided in this resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the City by the provisions of this resolution or of the aforementioned documents shall be exercised or performed by the City or by such members of the City, or such officers, board, body or agency thereof as may be required or authorized by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in the aforementioned documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member of the City, or any officer, agent or employee of the City in that person's individual capacity, and neither the City Council nor any officer or employee executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

No provision, covenant or agreement contained in the aforementioned documents, the Bonds or in any other document related to the Bonds, and no obligation therein or herein imposed upon the City or the breach thereof, shall constitute or give rise to any pecuniary liability of the City or any charge upon its general credit or taxing powers. In making the agreements, provisions, covenants and representations set forth in such documents, the City has not obligated itself to pay or remit any funds or revenues, other than funds and revenues derived from the Project or the proceeds of the Bonds which are to be applied to the payment of the Bonds, as provided therein and in the Indentures. The Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property or funds of the City except the

revenue and proceeds pledged to the payment thereof, nor shall the City be subject to any liability thereon. The holders of the Bonds shall never have the right to compel any exercise of the taxing power of the City to pay the outstanding principal of the Bonds or the interest thereon, or to enforce payment thereof against any property of the City. The Bonds shall recite in substance that the Bonds, including the interest thereon, are payable solely from the revenues and proceeds pledged to the payment thereof. The Bonds shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation.

Except as herein otherwise expressly provided, nothing in this resolution or in the aforementioned documents expressed or implied is intended or shall be construed to confer upon any person or firm or corporation, other than the City or any holder of the Bonds issued under the provisions of this resolution, any right, remedy or claim, legal or equitable, under and by reason of this resolution or any provision hereof, this resolution, the aforementioned documents and all of their provisions being intended to be and being for the sole and exclusive benefit of the City and any holder from time to time of the Bonds issued under the provisions of this resolution.

11. **Severability.** If any one or more of the provisions of this resolution, the City Documents, or the Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this resolution, or of the aforementioned documents, or of the Bonds, but this resolution, the aforementioned documents, and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein.

12. **Payment of Costs.** The Borrower has agreed to pay directly or to reimburse the City for all costs incurred by the City in connection with the issuance, sale and delivery of the Bonds and the execution and delivery of the documents referred to above or any other agreement or instrument relative to the Bonds, whether or not actually issued or delivered, such as costs of publication of legal notices.

13. **Authorized Officers.** The Bonds, the City Documents and any other documents referred to herein are authorized to be executed on behalf of the City by its Mayor, Finance Officer, City Clerk, or any member of this Council; provided that in the event any of the officers of the City authorized to execute documents on behalf of the City under this resolution shall have resigned or shall for any reason be unable to do so, any member of the City, or officer of the City, is hereby directed and authorized to do so on behalf of the City, with the same effect as if executed by the officer authorized to do so in this resolution.

14. **Appointment of Trustee.** The Trustee is hereby appointed as Trustee, Paying Agent and Bond Registrar for the Bonds.

15. **Effective Date of Resolution.** This Resolution shall take effect upon publication.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 13, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Comm Dev - Your Committee, having under consideration the City's housing requirements and the development of selection criteria for funding rounds in 2003, now recommends approval to proceed with the request for proposals (RFP) process using existing selection criteria and current program guidelines (based on the City's Affordable Housing Policy, the Consolidated Plan and the Senior Housing Policy).

Your Committee further recommends that appropriate Minneapolis Community Development Agency (MCDA) staff be directed to work with Council leadership to schedule a Committee of the Whole Strategic Planning Session to discuss City Housing issues, with the understanding that scheduling must allow adequate time for the 45-day waiting period required to change recommended criteria prior to second-cycle funding.

Adopted. Yeas, 11; Nays, 1 as follows:

Yeas - Johnson, Colvin Roy, Zimmermann, Schiff, Zerby, Lilligren, Johnson Lee, Benson, Goodman, Lane, Ostrow.

Nays - Niziolek.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

The **COMMUNITY DEVELOPMENT, PUBLIC SAFETY & REGULATORY SERVICES, TRANSPORTATION & PUBLIC WORKS** and **ZONING & PLANNING** Committees submitted the following report:

Comm Dev, PS&RS, T&PW, & Z&P - Your Committee recommends passage and summary publication of the accompanying Resolution establishing a Northeast Minneapolis Arts District, as recommended by the Minneapolis Arts Commission on November 20, 2002.

Niziolek moved that the resolution be amended by deleting the language in the first resolved clause, "Marshall Avenue NE," and inserting in lieu thereof, the language, "the Mississippi River." Seconded.

Adopted upon a voice vote.

The report, with the amended resolution, was adopted.

Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Resolution 2002R-458, establishing a Northeast Minneapolis Arts District, was passed December 13, 2002 by the City Council and approved December 19, 2002 by the Mayor. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2002R-458
By Ostrow and Goodman

Establishing a Northeast Minneapolis Arts District, as recommended by the Minneapolis Arts Commission on November 20, 2002.

Whereas, empty warehouse and factory spaces in Northeast Minneapolis have become the working homes to hundreds of local Minneapolis artists over the last ten years; and

Whereas, economic figures indicate that the arts are a sound City investment, because they support tourism, promote quality of life, and attract businesses; and

Whereas, Northeast Minneapolis artist spaces have become threatened due to changes in the economy and an increase in local value and opportunities for commercial, retail and mixed-use development; and

Whereas, the Northeast Minneapolis Arts Association (NEMAA), a vital organization serving the needs of Northeast artists, had the vision and forethought to develop a plan for maintaining the area in the long-term as an arts community; and

Whereas, through NEMAA's leadership and the services of Jerry Allen and Associates, nationally-recognized consultants, a compelling and thoughtful Arts Action Plan was created; and

Whereas, the creation of this plan was also generously supported by the McKnight Foundation, Shamrock Properties, Hillcrest Development, Wells Fargo Bank and General Mills; and

Whereas, this Arts Action Plan is the first phase of at least a fifteen-year plan, with the central aim to stimulate economic revitalization through cultural revitalization;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the City Council establishes the Northeast Arts District within the area from Central Avenue NE to the Mississippi River, and from 26th Avenue NE to Broadway Avenue NE, with Arts Zones of highest artist concentration and cultural activity.

Be It Further Resolved that The City Council of The City of Minneapolis directs the Minneapolis Arts Commission and the Cultural Affairs Division of the Planning Department to incorporate strategies for supporting the Northeast Arts District (as described in the Arts Action Plan) into the City of Minneapolis Plan for Arts and Culture and the Minneapolis Comprehensive Plan, particularly strategies with regard to public art and grants and/or loans for art spaces.

Be It Further Resolved that The City Council of The City of Minneapolis directs the Planning and Inspections Departments to create a definition of an "arts overlay district" and identify development incentives, building code implications and public education strategies (as described in the Arts Action Plan) for developing such districts.

Be It Further Resolved that The City Council of The City of Minneapolis directs the Department of Public Works to work with NEMAA on a signage strategy and image for the Arts District that is allowable within the public right-of-way.

Be it Further Resolved that The City Council of The City of Minneapolis directs all of these departments to work closely with NEMAA and to gather community input during this process.

Be It Further Resolved that The City Council of The City of Minneapolis directs all of these departments to identify the financial implications of these strategies for establishing the Arts District.

Be it Further Resolved that The City Council of The City of Minneapolis directs all of these departments to identify the City-wide implications for establishing the Arts District.

Be It Further Resolved that The City Council of The City of Minneapolis directs all of these departments to report back to the Minneapolis City Council by July of 2003 on these issues and on the next steps.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

The **COMMUNITY DEVELOPMENT** and **WAYS & MEANS/BUDGET** Committees submitted the following reports:

Comm Dev & W&M/Budget - Your Committee recommends approval to increase the Upper Harbor River Terminal 2002 Annual Operating Budget by \$260,680, for a new budget total of \$2,867,483, based on increases in maintenance, payroll, and worker's compensation insurance costs.

Your Committee further recommends concurrence with the recommendation of the Interim Executive Director of the Minneapolis Community Development Agency (MCDA) to approve passage of the accompanying resolution amending the 2002 MCDA Appropriation Resolution, increasing the appropriation in Fund ERT0 (River Terminal) by \$300,000.

Your Committee further recommends that appropriate staff of the MCDA be directed to work with Council leadership to schedule a Council Study Session in the next six months, at a time that would include the new Ward 3 Council Member (to be elected on Monday, February 3, 2002) and to also include a tour of said River Terminal, for a more comprehensive discussion of the terminal and plant.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

RESOLUTION 2002R-459
By Goodman and Johnson

Amending The 2002 Minneapolis Community Development Agency Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by increasing the appropriation in Fund ERT0 (River Terminal) by \$300,000 from the projected fund balance.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Comm Dev & W&M/Budget - Your Committee, having under consideration the Lake Street Center Project located at 900 East Lake Street and the settlement agreement providing for the City to close on related properties and pay STA Associates, Inc., and STA Development Corporation \$742,000 on or before December 17, 2002, now recommends approval to appropriate funds for said payment, the source of which is a combination of prepaid parking revenue from Abbott Northwestern Hospital and rental income received to date from tenants on the premises.

Your Committee further recommends passage of the accompanying Resolution amending the 2002 Minneapolis Community Development Agency (MCDA) Appropriation Resolution, increasing Fund EDP0 (Defaulted Properties) by \$742,000.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

RESOLUTION 2002R-460
By Goodman and Johnson

Amending The 2002 Minneapolis Community Development Agency Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by increasing the appropriation in Fund EDP0 by \$742,000 from the projected fund balance.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Comm Dev & W&M/Budget - Your Committee, having under consideration a Volunteers of America of Minnesota Project located at 1900 Central Avenue, now recommends concurrence with the recommendation of the Interim Executive Director of the Minneapolis Community Development Agency (MCDA) to approve passage and summary publication of the accompanying Resolution adopting the 1900 Central Avenue Redevelopment Plan, the 1900 Central Avenue Tax Increment Finance (TIF) Plan, Modification No. 4 to the Central Avenue Redevelopment Plan, and Modification No. 92 to the Common Development and Redevelopment and Common TIF Plan.

Your Committee further recommends that this action be transmitted to the Board of Commissioners of the MCDA to adopt the plans.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Resolution 2002R-461, adopting the Volunteers of America Project located at 1900 Central Avenue Redevelopment Plan, the 1900 Central Avenue Tax Increment Finance Plan, Modification #4 to the Central Avenue Redevelopment Plan, and Modification #92 to the Common Project, was passed December 13, 2002 by the City Council and approved December 19, 2002 by the Mayor. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2002R-461
By Goodman and Johnson

Adopting the 1900 Central Avenue Redevelopment Plan, the 1900 Central Avenue Tax Increment Finance (TIF) Plan, Modification No 4 to the Central Avenue Redevelopment Plan, and Modification No 92 to the Common Development and Redevelopment and Common TIF Plan

Resolved by The City Council of The City of Minneapolis:

Section 1. Recitals

1.1 Pursuant to Laws of Minnesota 1980, Chapter 595, as amended, and the Minneapolis Code of Ordinances, Chapter 422, as amended (the "Agency Laws") the Housing and Redevelopment Authority in and for the City of Minneapolis (the "City") has been reorganized, granted additional powers, and designated the Minneapolis Community Development Agency (the "Agency") with the authority to propose and implement city development districts, housing and redevelopment projects and tax increment financing districts, all pursuant to Minnesota Statutes, Sections 469.001 through 469.134, and 469.174 through 469.179 as amended; and Laws of Minnesota 1971, Chapter 677 (collectively, the "Project Laws").

1.2 That by Resolution No 83R-356, duly adopted on August 26, 1983 the City of Minneapolis (the "City") approved the creation of the Central Avenue Redevelopment Project, dated May 10, 1983, which was further modified on August 28, 1987 by Resolution 87R-377, on January 13, 1989 by 89R-007, and on January 24, 1992 by 92R-030.

1.3 That by Resolution No 89R-530 duly adopted December 15, 1989 and approved December 21, 1989, the City of Minneapolis (the "City") has approved the creation by the Agency of the Common Development and Redevelopment and Common Tax Increment Financing Plans, (the "Common Plans") relating hereto, all pursuant to Minnesota Laws.

1.4 It has been proposed and the Agency has prepared, and this Council has investigated the facts with respect to a proposed 1900 Central Avenue Redevelopment Plan, a proposed 1900 Central Avenue TIF Plan, a proposed Modification No 4 to the Central Avenue Redevelopment Plan, and a proposed Modification No 92 to the Common Plans ("collectively, the Plans"). The Plans create a new free-standing project area (the "Project Area") and TIF district, and modify the existing Project Area and Common Plans to accommodate the activities and financing related to the proposed project, all pursuant to and in accordance with the Project Laws. The Plans designate property to be included within the boundaries of the Project Area, designate property that may be disposed of and conveyed to a developer, identify a budget for expenditures, reflect project activities and costs, and establish a housing TIF district; all pursuant to and in accordance with the Laws.

1.5 The Council hereby determines that it is necessary and in the best interests of the City at this time to approve the Plans to reflect project activities and costs in the Project Area.

1.6 The Agency and the City have performed all actions required by law to be performed prior to the adoption of the Plans, including, but not limited to, a review of the proposed Plans by the affected neighborhood groups and the Planning Commission, transmittal of the proposed Plans to the Hennepin County Board of Commissioners and the School Board of Special School District No 1 for their review and comment, and the holding of a public hearing after published and mailed notice as required by law.

Section 2. Findings for the Adoption of the Plans

2.1 The Council hereby finds, determines and declares that the objectives and actions authorized by the Plans are all pursuant to and in accordance with the Laws.

2.2 The Council hereby finds, determines and declares that the Plans will afford maximum opportunity, consistent with the sound needs of the City as a whole, for the redevelopment of the Project Area by private enterprise as the proposed redevelopment removes blight and blighting influences on a formerly contaminated site, facilitates senior housing development, including the provision of low and moderate income rental housing for independent senior residents that will alleviate a shortage of decent, safe and sanitary housing for persons of low or moderate income as such income is determined by the Authority, pursuant to the Laws, enhance the city's tax base, and will serve as an impetus for the provision of needed community redevelopment, including commercial and retail opportunities.

2.3 The Council hereby finds, determines and declares that on July 31, 1998, the Council adopted by Resolution 98R-281 an Affordable Housing Policy for the City of Minneapolis documenting the growing shortage of decent, safe and affordable housing for low and moderate income families and individuals in the City. Evidence presented to support this finding and policy are listed in Exhibit 2 "Project Area Report and Site Eligibility" of the 1900 Central Avenue Tax Increment Finance Plan, and are on file at the Agency. It is therefore found that the establishment of the 1900 Central Avenue Redevelopment Project and TIF district is fully justified to facilitate public development activities and expenditures to alleviate the current shortage of decent, safe, and affordable housing for low and moderate income households in Minneapolis.

2.4 The Council further finds, determines and declares that low income housing is defined as housing affordable to families with incomes below 80 percent of the Metropolitan median family income. Further, twenty percent or more of the residential units of the proposed development must be occupied by individuals whose income is fifty percent or less of area median income, and these units will have rent and income restrictions to ensure their availability as low income housing. These units will remain affordable to individuals whose income is 50 percent or less of the area median income, and therefore, the 1900 Central Avenue Project does comply with the income requirements for a qualified rental project, and meets the income requirements necessary for the creation of a Housing TIF District.

2.5 The Council hereby finds, determines and declares that moderate income housing is defined as housing affordable to families with incomes between 80 percent and 120 percent of the Metropolitan area median family income; and further, moderate income is defined for this purpose in terms of the income levels for which the market does not provide housing without public assistance. In addition, 469.002, Subdivision 18, defines moderate income persons as "persons and their families whose income is not adequate to cause private enterprise to provide without governmental assistance a substantial supply of decent, safe, and sanitary housing at rents or prices within their financial means".

2.6 The Council further finds, determines and declares that the land in the Project Area would not be made available for redevelopment without the financial aide to be sought.

2.7 The Council further finds, determines and declares that the Plans conforms to the general plan for the development or redevelopment of the City as a whole. Written comments of the Planning Commission with respect to the Plans were issued, are incorporated herein by reference, and are on file in the office of the City Clerk.

2.8 The Council further finds, determines and declares that the 1900 Central Avenue TIF District is a housing district pursuant to Minnesota Statutes, Section 469.174, Subdivision 11.

2.9 The Council further finds, determines and declares that the 1900 Central Avenue TIF Plan affords maximum opportunity, consistent with the sound needs of the City as a whole, for the development of the TIF District by private enterprise as the proposed development is necessary in order to finance a portion of the public redevelopment activities necessary to implement the project, in order to relieve the current shortage of decent, safe, and sanitary housing for persons of moderate or low income and their families in Minneapolis; and further, that tax increment assistance is being utilized to subsidize the extraordinary cost of providing affordable housing at this site.

2.10 The Council further finds the creation of this TIF District is in the public interest because it will facilitate the development of a mixed-income housing project which will provide needed housing for moderate and low income persons and families, in addition to retail space and parking.

2.11 The Council further finds additional public benefits will include blight remediation, tax base enhancement, economic integration, and increased neighborhood livability.

2.12 The Council further finds that in the current real estate market, new rental housing affordable to persons in this income range is not being developed within the City, except with governmental assistance, thereby this project does qualify for public redevelopment assistance. Further, in order to finance public redevelopment costs with revenue from a housing TIF district, Minnesota statutes, Section 469.1761, Subd. 3, requires that "for residential rental property, the property must satisfy the income requirements for a qualified residential rental project as defined in section 142(d) of the Internal Revenue Code. A property also satisfies the requirements of section 142(d) if 50 percent of the residential units in the project are occupied by individuals whose income is 80 percent or less of area median gross income. The requirements of this subdivision apply for the duration of the tax increment financing district." It is found that at least 20 percent of these units will have rent and income restrictions to ensure

their availability as low income housing and will remain affordable to individuals whose income is 50% or less of the area median income for at least the period of time provided in Minnesota Statutes, Section 469.1761, therefore the project does comply with the income requirements for a "qualified Residential rental project" and meets the income requirements necessary for the creation of a Housing TIF District. Further it is found that 100 percent of the housing unit rents meet the test for low to moderate income residents.

2.13 The Council further finds, determines and declares that pursuant to Minnesota Statutes, Section 469.174, Subdivision 11, the fair market value of the low and moderate income housing project must constitute at least 80 percent of the total valuation of the improvements constructed in the Housing TIF District. Because the project meets the Internal Revenue Code definition of a "qualified residential rental project" the entire housing component of the project qualifies as a low and moderate income housing development. About 87 percent of the assessed value of the complete development is attributable to the "qualified residential housing project" as provided by the City Assessor's Office in exhibit 3 of the TIF Plan. Therefore, the 1900 Central Avenue project meets both the income and valuation eligibility tests for the creation of a Housing TIF District.

2.14 The Council further finds, determines and declares that the use of tax increment financing is deemed necessary as the proposed development would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future and that the increased market value of the site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the district permitted by the plan. The site of the proposed project is vacant, formerly contaminated, tax forfeit land. Efforts have been underway for more than ten years to redevelop these obsolete and underutilized properties, nevertheless, public redevelopment activities and expenditures were necessary to remediate the contamination and remained an essential component for leveraging private investment and development. The site had severe contamination constraints that limited its redevelopment potential. Further, 20 percent of the units will be rent restricted units, and as documented in the Plans, market rents cannot support the costs of new construction even for middle income renter households. The public redevelopment activity, expenditures and market values associated with the project results in a series of calculations and figures that clearly passes the "market value test" of Minnesota Statutes, Section 469.175, as provided in the plan document. It is therefore the opinion of the City of Minneapolis that the development in this TIF District could not occur solely through private investment within the foreseeable future.

2.15 The Council further finds, determines and declares that the entire fiscal disparity contribution required of the City for development occurring within this district be taken from outside the 1900 Central Avenue TIF District. The election provided in the Minnesota Statutes Section 469.177, Subdivision 3, paragraph (a) is elected.

2.16 The Council further finds, determines and declares that it is necessary and in the best interests of the City at this time to approve the Plans.

Section 3. Approval of the Plans; Creation of Project Area and TIF District

3.1 Based upon the findings set forth in Section 2 hereof, the 1900 Central Avenue Redevelopment Plan and the 1900 Central Avenue TIF Plan, Modification No 4 to the Central Avenue Redevelopment Plan, and Modification No 92 to the Common Plans presented to the Council on this date are hereby approved and shall be placed on file in the office of the City Clerk.

Section 4. Implementation of the Plans

4.1 The officers and staff of the City and the Agency, and the City's and the Agency's consultants and counsel, are authorized and directed to proceed with the implementation of the Plans, and for this purpose to negotiate, draft, prepare and present to this Council for its consideration, as appropriate, all further modifications, resolutions, documents and contracts necessary for this purpose.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

The **HEALTH & HUMAN SERVICES** and **WAYS & MEANS/BUDGET** Committees submitted the following reports:

H&HS & W&M/Budget – Your Committee, having under consideration a proposal of the Department of Health and Environmental Services to provide services of a City public health employee to assist Anoka County in serving populations of color, now recommends:

H&HS – that the proper City officers be authorized to accept a contract with Anoka County to exchange Janet Howard to provide said services for Anoka County Community Health and Environmental Services as authorized by Minnesota Statutes Section 15.51 through 15.59, for a period of December 1, 2002 through June 30, 2003, for an amount not to exceed \$5,000, and passage of the accompanying resolution increasing the Health Department appropriation by \$5,000 to reflect receipt of funds for Ms. Howard's services;

W&M/Budget – that the proper City officers be authorized to enter into a contract with Anoka County for its purchase of public health consulting services to be provided by Janet Howard for Anoka County Health and Environmental Services, for the period of December 23, 2002 through June 30, 2003 for an amount not to exceed \$5,000, and passage of the accompanying resolution increasing the Health Department appropriation by \$5,000 to reflect the receipt of funds for Ms. Howard's services.

Johnson Lee moved to amend the report to approve the recommendation of the Ways & Means/Budget Committee and delete the recommendation of the Health & Human Services Committee. Seconded.

Adopted upon a voice vote.

The report, as amended, was adopted.

Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

RESOLUTION 2002R-462
By Johnson Lee and Johnson

Amending The 2002 General Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by increasing the appropriation for the Neighborhood Services Agency in the Grants - Other Fund (0600-860-8621) by \$5,000 and increasing the revenue source (0600-860-8621 - Source 3220) by \$5,000.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

The **INTERGOVERNMENTAL RELATIONS** Committee submitted the following reports:

IGR - Your Committee recommends approval of the Indemnification and Cooperation Agreement regarding the Wold-Chamberlain Field Joint Airport Zoning Board and the Minneapolis-St. Paul International Airport Zoning Ordinance, as set forth in Petn No 268415, whereby the Metropolitan Airports Commission is largely responsible for costs of defending and/or any costs arising from a judgement against the Joint Airport Zoning board or members thereof.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

IGR - Your Committee recommends approval of the City's *draft* agenda for the Year 2003 Legislative Session as set forth below and specifically described in Petn No 268414, subject to further language changes:

PRIORITY ISSUES

- Local Government Finance
- Minneapolis-Accountability and Results
 - Focus Minneapolis
 - Regulatory Reform
 - Appointed Personnel
- Affordable Housing
- State Bonding Program
 - Minneapolis Planetarium & Space Discovery Center
 - Minneapolis Empowerment Zone
 - Guthrie Theater
 - Children's Theater
 - Sales Tax Exemption for Library
- Transportation
- Public Safety

SUPPORTED ISSUES

- Municipal Government
 - Domestic Partner Benefits
 - Web Publications
 - Late Night Closing/Theatre Liquor Licenses
- City Livability
 - Airport Noise
 - Airport Capacity
 - Tenant Remedies Act
 - Collection of Property
 - Re-inspection Fee
 - Funding for Health Disparities
 - Lead Prevention
 - Temporary Assistance for Needy Families Funding
 - Minor Consent
 - Tobacco Tax
 - No Sale of Wine in Grocery Stores
- Jobs & Economic Development
 - Funding for Brownfields; Petrofund Extension
 - Redevelopment Account Funding
 - Funding for Livable Communities
 - Tax Increment Finance Reform
 - Historic Tax Credits

ENDORSED AGENDAS

- League of Minnesota Cities
- Association of Metropolitan Municipalities
- Housing Minnesota
- Hennepin County Public Health Agenda
- Minnesota Solutions
- Minnesota Workforce Council Association
- National Association of Housing and Redevelopment Organizations
- The Property Tax Study Project
- Minnesota Association of Community Dentistry
- Minnesota Association of Local Housing Finance Agencies

ISSUES STILL IN PROGRESS

- Regional Facilities & Stadiums
- Municipal Government
 - Local Pension Plans

Benson moved that the report be referred back to the Intergovernmental Relations Committee. Seconded.

Adopted upon a voice vote.

The **PUBLIC SAFETY & REGULATORY SERVICES** Committee submitted the following reports:

PS&RS - Your Committee, having under consideration the application of Tiburon Restaurants LLC, dba Tiburon, 1201 Harmon Pl, for an On-Sale Liquor Class E with Sunday Sales License (new business) to expire October 1, 2003, and having held a public hearing thereon, now recommends that said license be granted, subject to final inspection and compliance with all provisions of applicable codes and ordinances.

Adopted. Yeas, 11; Nays none.

Declining to Vote - Benson.

Passed December 13, 2002.

Approved December 13, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

(Published December 17, 2002)

PS&RS - Your Committee, having under consideration the application of Babalu LLC, dba Babalu, 800 Washington Av N #102, for an On-Sale Liquor Class B with Sunday Sales License (new business) to expire October 1, 2003 and a Sidewalk Cafe License (new business) to expire April 1, 2003, and having held a public hearing thereon, now recommends that said licenses be granted, subject to payment of the fee for the sidewalk cafe license and final inspection and compliance with all provisions of applicable codes and ordinances.

Adopted. Yeas, 11; Nays none.

Declining to Vote - Benson.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

PS&RS - Your Committee, having under consideration the application of Little Tel-Aviv Inc, dba Little Tel Aviv, 3238 W Lake St, for an On-Sale Wine Class E with Strong Beer License (new business) to expire April 1, 2003, now recommends that said license be granted, subject to final inspection and compliance with all provisions of applicable codes and ordinances.

Adopted. Yeas, 11; Nays none.

Declining to Vote - Benson.

Passed December 13, 2002.

Approved December 13, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

(Published December 17, 2002)

PS&RS - Your Committee recommends granting the following applications for liquor, wine and beer licenses:

Off-Sale Liquor, to expire January 1, 2004

Haskell's Inc, dba Haskell's, 81 S 9th St;

PLR Holding Corporation, dba Jug Liquor Store, 226 W Broadway;

Surdyk's Liquor Inc, dba Surdyk's Liquor, 303 E Hennepin Av;

2538 Central Corporation, dba Central Avenue Liquors, 2538 Central Av NE;

Off-Sale Liquor, to expire April 1, 2003

R H M Inc, dba Gopher Liquor Store, 335 Monroe St;

Off-Sale Liquor, to expire October 1, 2003

France 44 Liquors Inc, dba France 44 Wines & Spirits, 4351 France Av S;

On-Sale Liquor Class A with Sunday Sales, to expire January 1, 2003

D T Management Inc, Arizona Corp, dba Doubletree Guest Suites - Mpls, 1101 LaSalle Av (new manager);

On-Sale Liquor Class A with Sunday Sales, to expire January 1, 2004

University Gateway Corp, dba The Gateway Cafe, 200 Oak St;

Kieran's Irish Pub Inc, dba Kieran's Irish Pub, 330 2nd Av S;

422 Hennepin Inc, dba Brass Rail, 422 Hennepin Av;

Univ Inn Assoc a Ltd Partnership, dba Radisson Hotel Metrodome, 615 Washington Av SE;

On-Sale Liquor Class A with Sunday Sales, to expire July 1, 2003

Mpls Branch of American Association of Univ Women, dba Mpls Branch of American Association of University Women, 2115 Stevens Av;

On-Sale Liquor Class A with Sunday Sales, to expire October 1, 2003

SHP DT Bevflow Inc, dba Doubletree Minneapolis, 1101 LaSalle Av (change in ownership from DT Management Inc, an Arizona Corp);

Ukrainian American Community Center Inc, dba Ukrainian American Community Center, 301 Main St NE;

80 S 8th St Hotel Operations Inc, dba Windows on Minnesota, 701 Nicollet Mall, 50th floor;

Western Host Inc, dba Four Points Hotel Minneapolis, 1330 Industrial Blvd;

On-Sale Liquor Class A with Sunday Sales, to expire December 6, 2003

International Catering Inc, dba Atrium Cafe, 275 Market St (December 6, 2002, 6:00 p.m. to 1:00 a.m., First Friday);

On-Sale Liquor Class A with Sunday Sales, to expire December 7, 2003

International Catering Inc, dba Atrium Cafe, 275 Market St (December 7, 2002, 6:00 p.m. to Midnight, Landrover - Eden Prairie);

On-Sale Liquor Class B with Sunday Sales, to expire January 1, 2004

Murray's Inc, dba Murray's, 24 S 6th St, 1st floor;

Baz Inc a Minnesota Corporation, dba Champps, 100 6th St N (includes outdoor entertainment);

Caboose Enterprises Inc, dba Cabooze, 913 Cedar Av, 1st floor;

On-Sale Liquor Class B with Sunday Sales, to expire July 1, 2003

TGI Fridays of Minnesota Inc, dba TGI Fridays, 615 Hennepin Av;

On-Sale Liquor Class B with Sunday Sales, to expire October 1, 2003

Bravo LLC, dba Bravo!, 900 Hennepin Av;

Tay-Mac Inc, dba Whiskey Junction, 901 Cedar Av;

Minneapolis Aerie #34 F O E, dba Minneapolis Aerie #34 F O E, 2507 E 25th St;

On-Sale Liquor Class C-1 with Sunday Sales, to expire April 1, 2003

Marissas Inc, dba El Mariachi Restaurant, 2750 Nicollet Av (new business; change from On-Sale Wine Class E with Strong Beer);

On-Sale Liquor Class C-1 with Sunday Sales, to expire October 1, 2003

Local-An Epicurean Cafe & Pub, dba Local, 931 Nicollet Mall;

Table of Contents Inc, dba Dish/Table of Contents, 1310 Hennepin Av;

On-Sale Liquor Class D with Sunday Sales, to expire January 1, 2004

Union Grill & Bar LLC, dba Union Grill & Bar, 312 Central Av SE;

On-Sale Liquor Class E with Sunday Sales, to expire January 1, 2003

Haanpaa Restaurants Inc, dba King and I, 1346 LaSalle Av (new manager);

On-Sale Liquor Class E with Sunday Sales, to expire January 1, 2004

Chipotle Mexican Grill of Colorado LLC, dba Chipotle Mexican Grill, 50 S 6th St;

Brinda Companies Inc, dba Pracna on Main, 117 Main St SE;

Chipotle Mexican Grill of Colorado LLC, dba Chipotle Mexican Grill, 225 E Hennepin Av;

Chipotle Mexican Grill of Colorado LLC, dba Chipotle Mexican Grill, 229 Cedar Av;

OSF International Inc, dba Old Spaghetti Factory, 233 Park Av;

Bigsby Enterprises Ltd, dba Bigsby's Cafe, 701 4th Av S;

Chipotle Mexican Grill of Colorado LLC, dba Chipotle Mexican Grill, 800 Washington Av SE;

Zelo Inc, dba Zelo, 831 Nicollet Mall;

Chipotle Mexican Grill of Colorado LLC, dba Chipotle Mexican Grill, 1040 Nicollet Mall;

B & A Restaurant Corporation, dba Ping's Szechuan Bar & Grill, 1401 Nicollet Av;

Rainbow Restaurant Properties Inc, dba Chino Latino, 2916 Hennepin Av;

Restaurant Properties Inc, dba Figio's, 3001 Hennepin Av #301A;

Chipotle Mexican Grill of Colorado LLC, dba Chipotle Mexican Grill, 3040 Excelsior Blvd;

On-Sale Liquor Class E with Sunday Sales, to expire July 1, 2003

Lake Street Inc, dba Smiling Moose, 3001 Hennepin Av;

On-Sale Liquor Class E with Sunday Sales, to expire October 1, 2003

Restaurant Entertainment Group Inc, dba Refuge Bar & Grill, 430 1st Av N;

Fuji Two Inc, dba Fuji Ya Restaurant, 600 W Lake St;

Brandon's 923 Inc, dba Brandons 923 Club, 923 Washington Av N;

Temporary On-Sale Liquor

Basilica of St. Mary, dba Basilica of St. Mary, 88 17th St N (December 11, 2002, 5:00 p.m. to 11:00 p.m., Messiah Dinner;

Minnesota Public Radio, dba Twin Cities Food & Wine Experience, 45 E 7th St, St. Paul (January 31, 2002, 3:00 p.m. to 9:00 p.m.; February 1, 2003, 11:00 a.m. to 7:00 p.m.; and February 3, 2003, 11:00 a.m. to 5:00 p.m. at Minneapolis Convention Center);

Off-Sale Beer, to expire April 1, 2003

Speedway SuperAmerica LLC, dba SuperAmerica #4391, 3904 E Lake St (new business);

Diamond Lake Inc, dba Sullivan's Super Valu, 30 W Lake St;

Diamond Lake Inc, dba Sullivan's Super Valu, 501 W Broadway;

Speedway SuperAmerica LLC, dba SuperAmerica #4378, 2445 Bloomington Av;

Good Choice Inc, dba Los Amigos, 2746 Blaisdell Av;

Hammad and Carlson Food Inc, dba More Valu II, 2747 Bloomington Av;

Dokken's Inc, dba Dokken's Superette, 2809 E 42nd St;

Morris & Christie Inc, dba Morris & Christie, 3048 Hennepin Av;

Kwik Mart Inc, dba Kwik Mart Inc, 3652 Cedar Av;

All Stop Inc, dba Full Stop, 1818 Lowry Av N;

On-Sale Beer Class E, to expire April 1, 2003

Sky Ventures LLC, dba Pizza Hut, 1301 University Av SE.

Adopted. Yeas, 11; Nays none.

Declining to Vote - Benson.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

PS&RS - Your Committee recommends granting the following applications for business licenses as per list on file and of record in the Office of the City Clerk under date of December 13, 2002, subject to final inspection and compliance with all provisions of the applicable codes and ordinances (Petn No 268417):

Amusement Devices; Place of Amusement Class B-1; Place of Amusement Class B-2; Christmas Tree; Dry Cleaner – Non-flammable; Place of Entertainment; Confectionery; Grocery; Food Manufacturer; Restaurant; Food Shelf; Short Term Food Permit; Gas Fitter; Gasoline Filling Station; Heating, Air Conditioning & Ventilating Class A; Heating, Air Conditioning & Ventilating Class B; Hospital; Hotel/ Motel; Juke Box – Musical; Lodging House; Lodging House with Boarding; Motor Vehicle Dealer – Cycles & Motorbikes; Motor Vehicle Repair Garage; Motor Vehicle Repair Garage with Accessory Use; Towing Class A; Towing Class B; Commercial Parking Lot Class A; Commercial Parking Lot Class B; Plumber; Recycling/Salvage Yard; Refrigeration Systems Installer; Residential Specialty Contractor; Secondhand Goods Class B; Solicitor – Individual; Steam & Hot Water Systems Installer; Theater Zone I; Tobacco Dealer; Combined Trades; Tree Servicing; Valet Parking; Wrecker of Buildings Class A; and Wrecker of Buildings Class B.

Adopted. Yeas, 11; Nays none.

Declining to Vote - Benson.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

PS&RS - Your Committee recommends granting the following applications for gambling licenses, subject to final inspection and compliance with all provisions of the applicable codes and ordinances:

Gambling-Lawful Class B

Minneapolis Jaycees Charitable Foundation, dba Minneapolis Jaycees Charitable Foundation, 2020 1st Av S (Site: Spring Street Bar & Grill, 355 Monroe St NE);

Gambling Lawful Exempt

Childrens Theatre Company, dba Childrens Theatre Company, 2400 3rd Av S (Raffle November 23, 2002);

All Saints Church, dba All Saints Church, 435 4th St NE (Bingo November 24, 2002);

Resource Center of the Americas, dba Resource Center of the Americas, 3019 Minnehaha Av (Raffle December 20, 2002);

Big Brothers Big Sisters, dba Big Brothers Big Sisters, 2550 University Av S #410-N, St. Paul (Raffle March 8, 2003 at Minneapolis Hilton, 1001 Marquette).

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

PS&RS - Your Committee, having under consideration the Grocery and Meat Market Licenses held by New Meat Market, 1844 Central Av NE, and having received Findings of Fact, Conclusions and Recommendations arising from a Technical Advisory Committee (TAC) hearing for violating the Food Code that resulted in a closure of the business due to hazardous health conditions, now recommends adoption of the following recommendations, as more fully set forth in said Findings, on file in the Office of the City Clerk and made a part of this report by reference:

a. the licensee will immediately abate all Food Code violations. Environmental Health will inspect the business within two weeks of the hearing, and if one critical violation is found, the licensee agrees to immediately close the business until it is free of any critical violations.

b. the licensee agrees to seek assistance from a grocery store owner that is successful in operating its business and develop a mentoring relationship, to be approved by the Environmental Health Division, and the licensee's son will attend the Environmental Health course designed for grocery store maintenance.

c. Environmental Health will inspect the business every month for a period of six months to ensure compliance.

d. the licensee will pay \$50 for the inspection of the business and will pay \$50 for the cancellation of an appointment with Environmental Health.

e. the licensee agrees to contract with a pest control professional.

f. the licensee agrees to pay an administrative fine of \$1,500 to the City of Minneapolis, payable in six installments, as set forth in the TAC Agreement.

Zimmermann moved to substitute the following report for the above report. Seconded.

Adopted upon a voice vote.

PS&RS - Your Committee, having under consideration the Grocery and Meat Market Licenses held by New Meat Market, 1844 Central Av NE, and having received Findings of Fact, Conclusions and Recommendations arising from a Technical Advisory Committee (TAC) hearing for violating the Food Code that resulted in a closure of the business due to hazardous health conditions, now recommends adoption of the following recommendations, as more fully set forth in said Findings, on file in the Office of the City Clerk and made a part of this report by reference:

a. the licensee will cease all Meat Market operations and surrender his license.

b. the establishment may operate as a grocery store but for pre-packaged items only under the following conditions:

1. special monthly inspections will be conducted for six months, and the licensee shall pay \$50 for each inspection;

2. the licensee will pay a fine of \$2,000, with \$1,000 being stayed. The licensee shall pay \$250 at the signing of the agreement and the remainder in monthly payments.

c. after one of the licensee's sons successfully completes food manager training, the licensee may request permission from the Environmental Health Division to do re-packaging of food under the grocery license.

d. after one of the licensee's sons successfully completes food manager training, if the establishment has a six-month inspection record of no more than one critical and three non-critical items per inspection, the licensee may re-apply for a Meat Market license when a plan for such has been approved and the premises has been inspected and approved by Environmental Health.

e. if the licensee is found operating in violation of any conditions of this agreement, he agrees to surrender any and all licenses.

Niziolek moved to refer the reports back to the Public Safety & Regulatory Services Committee. Seconded.

Adopted upon a voice vote.

PS&RS - Your Committee, having under consideration the Rental Dwelling License for the property located at 1718 Johnson St NE, and having received an acceptable management plan by the new owner and verification that said property is now in compliance with rental licensing standards in accordance with Section 244.1940 of the Minneapolis Code of Ordinances, now recommends concurrence with the recommendation of the Director of Inspections to approve the reinstatement of said license to be held by Troy Martenson, 480 W Highway 96, Shoreview. (Petn No 268416)

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

The **TRANSPORTATION & PUBLIC WORKS** Committee submitted the following reports:

T&PW - Your Committee, having under consideration the Environmental Assessment for the Departure Procedure off Runway 17 at Minneapolis-St Paul Airport, now recommends approval of the comments to the Metropolitan Airports Commission. The environmental assessment evaluates options to reduce impacts primarily to residents in Burnsville and Bloomington and has no direct impact on the residents of Minneapolis except as it pertains to the City's following positions:

a) The City is supportive of the operation of Runway 17-35 as described in the Final Environmental Impact Statement and Record of Decision;

b) The City is supportive of the fair and equitable distribution of noise to all communities;

c) The City is supportive of the concept that, to the extent possible, noise reduction at the source and operational procedures should be used to minimize off airport noise impacts; and

d) The City is supportive of the practice that air traffic should be directed over compatible land uses rather than over residential areas.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

T&PW - Your Committee, having under consideration the legal action taken by Kick's Liquor (Broadway Liquor), now recommends approval of the following actions and timeline to change the traffic conditions along and near McNair Avenue North:

a) Direct the Public Works Department to collect necessary traffic data to determine potential new conditions;

b) Direct the Public Works Department to determine the potential options for changes in the McNair Avenue area;

c) Request Council Member Johnson Lee to arrange and hold a community meeting to discuss the changes;

d) Return to Transportation & Public Works Committee on December 19, 2002 with resultant discussions, proposed actions and budget implications; and

e) Implement the changes according to Federal, State and City laws, ordinances, and standards after communication with the community and prior to January 3, 2003.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

T&PW - Your Committee, having under consideration the Minneapolis Street Lighting Policy - Standard Wood Pole System, now recommends:

a) Adopt Section I of the draft Minneapolis Street Lighting Policy as it pertains to the Standard Street/Alley lighting "wood pole" system dated June 3, 2002, and revised November 18, 2002; and

b) Remove the restriction on developing new wood pole street lighting petitions.

Adopted. Yeas, 11; Nays 1 as follows:

Yeas - Johnson, Colvin Roy, Zimmermann, Schiff, Zerby, Lilligren, Johnson Lee, Benson, Goodman, Lane, Ostrow.

Nays - Niziolek.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

T&PW - Your Committee, having under consideration the Metropolitan Airports Commission's (MAC) Review of Proposed 2003 - 2009 Capital Improvement Program, now recommends that the Minneapolis City Council urge the MAC to commit to a funding level necessary for the completion of the untreated homes eligible for noise mitigation for the entire 1996 program before the adoption of a new noise exposure map (NEM).

Your Committee further requests information on the MAC's plans for addressing these residences with or without federal funding approval.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

The **TRANSPORTATION & PUBLIC WORKS** and **WAYS & MEANS/BUDGET** Committees submitted the following reports:

T&PW & W&M/Budget - Your Committee, having under consideration the Parking Meter Management Plan presented by the City's Transportation Engineer that outlines changes to improve on-street parking, now recommends approval of the following:

a) That appropriate City staff be directed to increase and maintain a high level of general parking meter enforcement by balancing personnel levels with enforcement required.

b) That staff be further directed to increase enforcement targeted at abuse of disability privileges by ineligible individuals:

- 1) Secure and utilize State of Minnesota Criminal Justice Information System (CJIS) data on disability permit holders;
- 2) Establish a Disability Volunteers Assistance Program to help monitor areas of known disability permit abuse and provide notification to appropriate enforcement personnel;
- 3) Expand the abilities of the new ticket writer equipment to improve the efficiency of enforcement techniques; and
- 4) Passage and summary publication of the accompanying Resolution requesting that the Minnesota Department of Public Safety (MDPS) review and tighten the current policies/procedures for issuance and enforcement of disability parking certificates.

c) Effective April 1, 2003, eliminate the current practice of all-day free parking at meters by operators of vehicles with disability license plates or certificates and continue to allow free use of one and two hour limit meters by eligible individuals with appropriate disability designations, subject to a maximum limit of four hours;

d) And approval of the following staff directions:

- 1) Return to the Transportation & Public Works Committee as soon as possible after financial analysis of the following two proposals: to allow eligible disabled persons to utilize the designated disability parking spaces in Municipal Parking lots and ramps, on a monthly basis, for a fee equal to 50% of the actual monthly contract rate. Regular rates would apply to non-contract short-term disability users. The city will encourage private sector parking operators to adopt a similar policy; a fee based permit process to allow a limited number of "severely disabled" individuals to obtain a special parking permit to utilize parking meters under unique circumstances for all day use;
- 2) Investigate the possibility of a City role in encouraging and educating employers on their ADA requirements for "reasonable accommodations" relative to parking for their disabled employees;
- 3) Determine which City ramps are best designed for use by the disabled community and address concerns about dexterity and the ticket machines;
- 4) Continue negotiating with private parking ramp owners/operators for provision of discounted disability parking;
- 5) Develop a plan to educate the public on existing regulations and new law changes regarding legal disability use of parking spaces at meters or in lots and ramps.

e) Increase the level of enforcement of the 30-minute limit provided for free commercial vehicle use (until noon) of the parking meters.

f) Eliminate the free use of parking meters by emergency service vehicles (unless responding to an actual incident) and city vehicles (unless by special permit);

now recommends:

T&PW - Approval.

W&M/Budget - Motion to approve failed.

Colvin Roy moved to amend the report to approve the recommendation of the Transportation & Public Works Committee and delete the recommendation of the Ways & Means/Budget Committee. Seconded.

Adopted upon a voice vote.

The report, as amended, was adopted.

Yeas, 9; Nays 3, as follows:

Yeas - Johnson, Colvin Roy, Zimmermann, Schiff, Zerby, Lilligren, Benson, Goodman, Ostrow.

Nays - Johnson Lee, Niziolek, Lane.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Resolution 2002R-463, requesting that the Minnesota Department of Public Safety review and tighten the current policies/procedures for issuance and enforcement of disability parking certificates, was passed December 13, 2002 by the City Council and approved December 19, 2002 by the Mayor. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2002R-463

By Colvin Roy

Requesting the Minnesota Department of Public Safety to review and tighten the policies and procedures for better control in the issuance of disability parking certificates.

Whereas, the City of Minneapolis Parking Meter Management Plan is a comprehensive multifaceted plan to improve the turnover of on-street curb-space, more efficiently manage the limited parking resource on-street, and serve the greatest number of constituents; and

Whereas, the City of Minneapolis Transportation and Parking Services Division and the Minneapolis Advisory Committee on People with Disabilities have analyzed, discussed and reviewed the Parking Meter Management Plan; and

Whereas, the Parking Meter Management Plan examines the potential impacts on the disability community; and

Whereas, a major impact on the disability community is the illegal use and ease of obtaining of disability parking certificates; and

Whereas, The City of Minneapolis and the people with disabilities agree that the Minnesota Department of Public Safety be requested to review and tighten the current policy/procedures for issuance and tracking of disability parking certificates;

Now, Therefore, Be It Resolved, that The City of Minneapolis requests the Minnesota Department of Public Safety to review and tighten the policies and procedures for better control in the issuance of disability parking certificates.

Adopted. Yeas, 9; Nays 3, as follows:

Yeas - Johnson, Colvin Roy, Zimmermann, Schiff, Zerby, Lilligren, Benson, Goodman, Ostrow.

Nays - Johnson Lee, Niziolek, Lane.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

T&PW & W&M/Budget - Your Committee, having under consideration the 2002 Flood Mitigation Update, now recommends approval as follows:

a) Realign and make financial adjustments to the current 2002/2003 Flood Mitigation capital appropriations due to changes in project scope from the original 1997 Flood Mitigation Program, as set forth in Petn No 268421 on file in the office of the City Clerk, with the understanding that additional funds are not needed because certain projects funded in 2002 and 2003 will be postponed; and

b) Beginning in 2003, submit the remaining projects included in the original 1997 Flood Mitigation Program capital requests to the Capital Long Range Improvement Committee (CLIC) Review Process. As part of the CLIC process, a workout plan for the postponed projects mentioned will be developed and presented to City Council.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

T&PW & W&M/Budget - Your Committee recommends acceptance of the bid received on OP #5964 (Petn No 268421) submitted by CDS Technologies, Inc., in the amount of \$351,600, to furnish and deliver grit removal structures, all in accordance with City specifications, contingent on approval by the Civil Rights Department.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 13, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

(Published December 17, 2002)

T&PW & W&M/Budget - Your Committee, having under consideration the Minneapolis Water Works Computerized Maintenance Management System (CMMS) now recommends that the proper City officers be authorize to execute an extension of the existing contract with Camp, Dresser, and McKee (CDM), Inc. to include integration with FISCOL, for Supplemental Consulting Services for implementation of the CMMS and the cost for additional services not to exceed \$50,000 over a 2-year period. Funds are available under Public Works Water Maintenance fund (7400-690-6950-5070).

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

T&PW & W&M/Budget - Your Committee, having under consideration a proposed project to install low-level pedestrian scale street lighting in the residential area bounded by Lyndale Av S and Lake St and including Stevens Av and W 36th St (Lyndale Neighborhood Residential Lighting Project) and as further outlined in Petn No 268421 on file in the Office of the City Clerk, now recommends:

T&PW - That the request to proceed and adopt special assessments for said project be denied;

W&M/Budget - That the request to proceed and adopt special assessments for said project be denied and that the staff proposal to fund the costs already incurred for the project through the Public Works - Transportation Division Operating Budget and Special Assessments Division be approved.

Colvin Roy moved to amend the report to approve the recommendation of the Transportation & Public Works Committee recommendation and delete the recommendation of the Ways & Means/Budget Committee. Seconded.

Adopted upon a voice vote.

The report, as amended, was adopted.

Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

The **WAYS & MEANS/BUDGET** Committee submitted the following reports:

W&M/Budget - Your Committee, to whom was referred an ordinance Amending Title 2 Chapter 18 of the Minneapolis Code of Ordinances relating to *Administration: Purchasing*, requiring successful bidders on City contracts to offer equal benefits to same sex domestic partners, with exceptions for small businesses and other categories, to be effective January 1, 2004, now recommends that said ordinance be given its second reading for amendment, passage and summary publication.

Johnson moved to substitute a new Ordinance for the above-mentioned Ordinance. Seconded.

The motion to substitute was adopted.

Yeas, 7; Nays, 5 as follows:

Yeas - Johnson, Colvin Roy, Zimmermann, Zerby, Johnson Lee, Lane, Ostrow.

Nays - Schiff, Lilligren, Niziolek, Benson, Goodman.

Schiff moved to substitute a new Ordinance for the substituted Ordinance. Seconded.

Adopted upon a voice vote.

The report, as amended to substitute the accompanying Ordinance, was adopted.

Yeas, 8; Nays, 4 as follows:

Yeas - Colvin Roy, Zimmerman, Schiff, Zerby, Lilligren, Niziolek, Benson, Goodman.

Nays - Johnson, Johnson Lee, Lane, Ostrow.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Ordinance 2002-Or-186 amending Title 2, Chapter 18 of the Minneapolis Code of Ordinances relating to *Administration: Purchasing*, requiring successful bidders on City contracts to offer equal benefits to domestic partners, with exceptions for small businesses and other categories, to be effective January 1, 2004, was passed December 13, 2002 by the City Council and approved December 19, 2002 by the Mayor. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

ORDINANCE 2002-Or-186

By Schiff, Zimmermann, Niziolek, Benson, Lilligren, Zerby

Intro & 1st Reading: 10/25/2002

Ref to: W&M/Budget

2nd Reading: 12/13/2002

Amending Title 2, Chapter 18 of the Minneapolis Code of Ordinances relating to Administration: Purchasing.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Chapter 18 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 18.200 to read as follows:

18.200. Equal benefits provisions in contracts. (a) The City of Minneapolis recognizes that a nationwide debate has advanced an expanded concept of familial relationships beyond traditional, marital relationships. This expanded concept includes relationships between two (2) non-married, adult partners who are committed to one another to the same extent as married persons are to each other, except for the traditional marital status and solemnities. The City of Minneapolis also recognizes that it annually enters into numerous contracts for the purchase of goods and services. Requiring contractors to provide to employees with domestic partners benefits equal to those provided to employees who are married will require contractors to maintain a competitive advantage in recruiting and retaining the highest quality work force, thereby improving the quality of goods and services that the city receives. The City of Minneapolis has a fiscal responsibility to ensure that it purchases the best quality goods and services possible within its budgetary constraints. To ensure that the City of Minneapolis receives improved quality of goods and services, the functions of the purchasing agent are expanded as provided in this section.

(b) In addition to the functions described in this chapter, the purchasing agent for the city must do the following:

- (1) Require that notice of the requirements of this section be provided in every request for proposal and bid specification, whether involving goods or services.
- (2) Require that, unless an exception is granted by the city council pursuant to subsection (g), every contract include a provision that the contractor will comply with this section.

(c) For purposes of this section, the following definitions apply:

Cash equivalent. The cash equivalent of the following benefits apply:

- a. For bereavement leave, cash payment for the number of days that would be allowed as paid time off for the death of a spouse. Cash payment would be in the form of the wages of the domestic partner employee for the number of days allowed.
- b. For disability insurance, life insurance, health benefits, and dental benefits, the cost to the contractor of the contractor's share of the single monthly premiums that are being paid for the domestic partner employee, to be paid on a regular basis while the domestic partner employee maintains such insurance in force for himself or herself.
- c. For a membership, the cost to the contractor of the membership fee normally paid for a spouse, as long as the domestic partner employee would have been provided such membership payments if the domestic partner employee would have had a spouse.
- d. For moving expenses and travel expenses, expenses that would have been paid to the domestic partner employee if the domestic partner of the employee were a spouse.
- e. For family leave, cash payment for the number of days that would be allowed as time off for an employee to care for a spouse who has a serious health condition. Cash payment would be in the form of the wages of the domestic partner employee for the number of days allowed.

Contract. An agreement which is estimated to exceed one hundred thousand dollars (\$100,000.00) for personal services; for the sale or purchase of supplies, materials, equipment or the rental thereof; or for the construction, alteration, repair or maintenance of personal property. Contract does not include development contracts.

Contractor. Any individual, corporation, partnership, association, nonprofit organization, groups of persons, organization, company, firm, limited liability company, joint venture, enterprise, or any other legal or commercial entity, or combination thereof, which enters into a contract with

the city, and which maintains twenty-one (21) or more employees on the payroll during twenty (20) or more calendar workweeks in either the current or the preceding calendar year. Workweeks include consecutive and nonconsecutive workweeks.

Domestic Partner.

- a. Any person who has a currently registered domestic partnership with a governmental body pursuant to state, local, or other law authorizing such registration. The term domestic partnership should be construed broadly to include same-sex civil unions or other such same-sex unions in which two (2) same-sex individuals are committed to one another to the same extent as married persons are to each other, except for the traditional marital status and solemnities; or
- b. Unless otherwise provided by state, local or other applicable law authorizing the registration of domestic partnerships, a person who is in a domestic partnership, which consists of two (2) adults who:
 1. Are not related by blood closer than permitted under marriage laws of the state.
 2. Are not married.
 3. Are competent to enter into a contract.
 4. Are jointly responsible to each other for the necessities of life.
 5. Are committed to one another to the same extent as married persons are to each other, except for the traditional marital status and solemnities.
 6. Do not have any other domestic partner(s).

Domestic Partner Employee. An employee who has a domestic partner.

Employee. An individual who performs services for compensation for a contractor and who is entitled to one or more employee benefits. Employee does not include independent contractors.

Employee benefits. Unless otherwise prohibited by state, federal or other law, bereavement leave, disability insurance, life insurance, health benefits, dental benefits, family leave, memberships, moving expenses, and travel benefits provided to employees of the contractor.

Registry. A system or mechanism for the recognition of, at a minimum, domestic partners during the term of the contract.

Religious or denominational educational institution. An educational institution which is operated, supervised, controlled or sustained primarily by a religious or denominational organization, or is one which is stated by the parent church body to be and is, in fact, officially related to that church through church representation on the board of the institution and through substantial church financial assistance to the institution; and further includes any agent or employee of such an institution.

Religious or denominational organization. Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection 26 U.S.C. § 501(h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Serious Health Condition. Serious health condition as defined by the federal Family and Medical Leave Act.

Subcontractor. Any individual, corporation, partnership, association, nonprofit organization, groups of persons, organization, company, firm, limited liability company, joint venture, enterprise, or any other legal or commercial entity, or combination thereof, which enters into a contract with a contractor to perform work related to a contract that the contractor has with the City, and which maintains twenty-one (21) or more employees on the payroll during twenty (20) or more calendar workweeks in either the current or the preceding calendar year. Workweeks include consecutive and nonconsecutive workweeks.

(d) No contractor shall discriminate by policy or practice in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. Any employee benefit provided in any manner contingent upon the existence of a marital relationship must also be provided

to an employee who has a domestic partner. The contractor shall not be deemed to discriminate in the provision of employee benefits if, despite taking reasonable measures to do so, the contractor is unable to extend a particular employee benefit to a domestic partner, so long as the contractor provides the employee with a cash equivalent of such a benefit.

(e) The provisions of subsection (d) do not apply when the City of Minneapolis is purchasing through a cooperative or joint purchasing agreement.

(f) A contractor is deemed in compliance with subsection (d) if the contractor meets one of the following criteria:

- (1) The contractor allows every employee to designate a legally domiciled member of the employee's household as being eligible for spousal equivalent benefits.
 - (2) The contractor maintains a registry from the execution of the contract to the completion of the contract. The maintenance of this registry shall include notice to employees of:
 - a. The existence of such a registry.
 - b. The requirements to be placed on the registry.
 - c. The requirements to be removed from such a registry.
 - d. The possibility of the extension of benefits to domestic partners of employees during the duration of any contract. However, upon request of an employee, the employee will be placed on the registry and will be provided equal benefits pursuant to subsection (d).
 - (3) The contractor states that, during the duration of the contract, it will provide notice to employees that the contractor will create a registry upon request of an employee of the contractor or upon request of the director of the Minneapolis Civil Rights Department, or the director's designee. Such notice to employees shall also advise employees of the requirements to be placed on the registry, the requirements to be removed from the registry, and the possibility of the extension of benefits to domestic partners of employees during the duration of any contract.
 - (4) The contractor provides benefits neither to employees' spouses nor to employees' domestic partners.
 - (5) The contractor cannot comply with the requirements of subsection (d) because those requirements are inconsistent with a grant or agreement with a public agency.
 - (6) The contractor is a religious or denominational educational institution.
 - (7) The contractor is a religious or denominational organization.
 - (8) The contractor is a governmental entity.
- (g) The city council may grant exceptions to the requirements of subsection (d) where:
- (1) Award of a contract or amendment to a contract is necessary to respond to an emergency, where the existence of an emergency is determined by the city council. In determining whether there is an emergency, the city council may consider the following nonexclusive factors: the nature of the contract; the length of the contract; the cost of the contract; whether grants are involved in the contract and the requirements of those grants; whether there is a need to have materials and goods furnished immediately and the consequences of a delay in having those materials and goods furnished; the monetary consequences if action is not taken immediately; any safety issues that may be involved; the consequences on labor, increased labor costs, and scheduling of labor; the need to complete work before a strike deadline; and the impact of delaying one phase or portion of a project on the other phase(s) or portion(s) of the project.
 - (2) The city council considers the following nonexclusive factors and determines that an exception is in the best interests of the City of Minneapolis:
 - a. The original contract was for one hundred thousand dollars (\$100,000.00) or less, amendments to the original contract have been made, and the amended contract exceeds one hundred thousand dollars (\$100,000.00).
 - b. Bids are received, the bids demonstrate that none of the bidders can comply with this section, and one (1) or more of the bids would have been responsive if compliance with this section would not have been listed as a requirement in the bid specification. Under this circumstance, the city could then rebid and delete the bid specification of complying with this section in the rebid.

- c. A request for proposal is requesting unique services that can only be reasonably provided by one (1) contractor.
- d. There is only one (1) bidder.
- e. Only one (1) proposal is submitted to a request for proposal.
- f. After a comparison between personal services proposals in which contractors would comply with this section with personal services proposals in which contractors would not comply with this section, the city council determines that the City of Minneapolis would gain a substantial cost savings by awarding a personal services contract to a contractor that will not comply with this section.
- (h) Decisions by the city council to grant exceptions to the requirements of (d) are final.
- (i) This section shall only apply to those portions of a contractor's operations that occur:
 - (1) Within the City of Minneapolis.
 - (2) On real property outside of the City of Minneapolis if the property is owned by the City of Minneapolis or if the City of Minneapolis has a right to occupy the property, and if the contractor's presence at that location is connected to a contract.
 - (3) Elsewhere in the United States where work related to a contract is being performed.
- (j) The requirements of this section shall only apply during the duration of the contract.
- (k) Except for subsection (l), all requirements of this section that apply to contractors shall also apply to subcontractors.
- (l) The contractor will include the provisions of section 18.200 in every subcontract, specifically or by reference, so that such provisions will be binding upon each subcontractor.
- (m) Because of its experience with the enforcement of other contractual requirements, and to avoid administrative costs of implementing a new enforcement unit, the Minneapolis Department of Civil Rights shall enforce the provisions of this section pursuant to all of its enforcement powers under Title 7 of this Code.

Section 2. That the Minneapolis Code of Ordinances be amended by adding thereto a new Section 18.210 to read as follows:

18.210. Effective date. That section 18.200 becomes effective January 1, 2004.

Adopted. Yeas, 8; Nays, 4 as follows:

Yeas - Colvin Roy, Zimmerman, Schiff, Zerby, Lilligren, Niziolek, Benson, Goodman.

Nays - Johnson, Johnson Lee, Lane, Ostrow.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

W&M/Budget – Your Committee recommends concurrence with the recommendation of the City Attorney that the lawsuits of the following individuals be settled as indicated:

a) Mary Jo Iverson, by payment of \$2,000 to Ms. Iverson and her attorney, Goins & Woods, P.C.;

b) Maurice Wilburn, by payment of \$35,000 to Mr. Wilburn and \$40,000 to his attorney Robert Bennett;

c) Lanz, et al, by payment of \$115,818.38 to the plaintiffs and their attorneys Richard Gill and Philip Sieff.

All settlements are payable from the Self-Insurance Fund (690-150-1500-4000).

Your Committee further recommends that the proper City officers be authorized to execute any documents necessary to effectuate said settlements.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

W&M/Budget – Your Committee, having under consideration the results of a Request for Proposals (RFP) process initiated by the Empowerment Zone (EZ) seeking organizations to provide human services using EZ funds totaling \$1.5 million, now recommends concurrence with the recommendations of the EZ Governance Board for approval of the following allocations:

AccessAbility, \$146,000
Achieve!Minneapolis, \$75,000
American Indian OIC, \$135,000
Centro, Inc, \$100,000
Church of St. Philip, \$100,000
Hmong American Mutual Assistance Association, \$150,000
Hollywood Studio of Dance, \$31,000
MAD DADS/Center for Fathering, \$75,000
Minneapolis Public Schools, SSD #1, Health Related Services, \$175,000
North Community High School, \$125,000
Pilot City Neighborhood Services, \$90,000
Sabathani Community Center, \$98,000
Somali Community of Minnesota, Inc., \$125,000
Urban Ventures Leadership Foundation, \$75,000.

All funds are payable from the City Coordinator Agency (0300-840-8460).

Your Committee further recommends that the proper City officers be authorized to execute a contract with each of said organizations setting forth appropriate terms and conditions.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

W&M/Budget - Your Committee recommends that the proper City officers be authorized to execute change orders to the following contracts for additional work required on the Convention Center Project, payable from the Convention Center Site Agency in the Permanent Improvement Projects Fund (4100-975-9751):

a) Change Order #5 to Contract #015024 with Shaw-Lundquist Associates, Inc., increasing said contract by \$102,768, for a new contract total of \$3,927,950;

b) Change Order #1 to Contract #015390 with Advance Terrazzo & Tile, Co., Inc., decreasing said contract by \$9,399, for a new contract total of \$725,101;

c) Change Order #22 to Contract #15236 with Harris Mechanical, increasing said contract by \$975,000, for a new contract total of \$19,333,130, representing full and final payment of the contract;

d) Change Order #12 to Contract #15224 with Premier Electric Corporation, increasing said contract by \$585,000, for a new contract total of \$16,950,264, representing full and final payment of the contract.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

W&M/Budget - Your Committee, having under consideration the New Central Library Project, now recommends that the proper City officers be authorized to execute Change Order #1, increasing Contract #018707 with F. M. Frattalone Excavating & Grading, Inc. by \$14,975, for a new contract total of \$1,262,976, payable from the existing project budget.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

W&M/Budget – Your Committee, having under consideration the New Central Library Project, now recommends concurrence with the recommendation of the Implementation Committee for approval of the following actions relating to provision of project insurance:

a) Authorize the proper City officers to execute a contract with AIG to provide umbrella liability coverage as part of the project Owner Controlled Insurance Program (OCIP), payable from the project budget (4400-908-9080);

b) Authorize the proper City officers to execute a contract with Liberty Mutual to provide the Builder's Risk coverage as part of the project insurance program;

c) Adoption of the insurance program outlined in Petn No 268425, including acceptance that the project will not utilize either a Project Professional Liability policy or a Contractor's Pollution Liability policy.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

W&M/Budget - Your Committee recommends concurrence with the recommendation of the Director of Human Resources that the position of Engineering Aide I (Seasonal) be reclassified to a new position entitled Engineering Technician I (Seasonal) pursuant to the provisions of the Collective Bargaining Agreement effective January 1, 2003, and that all incumbents to the position be reclassified to the new position.

Your Committee further recommends passage and summary publication of the accompanying amendment to the Salary Ordinance establishing the salary for the new position.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Ordinance 2002-Or-187 amending Title 2, Chapter 20 of the Minneapolis Code of Ordinances relating to *Administration: Personnel*, establishing the salary for the reclassified position of Engineering Technician I (Seasonal), was passed December 13, 2002 by the City Council and approved December 19, 2002 by the Mayor. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2002-Or-187

By Johnson

1st & 2nd Readings: 12/13/2002

Amending Title 2, Chapter 20 of the Minneapolis Code of Ordinances relating to Administration: Personnel.

Section 1. That the following classifications in Section 20.10.01 of the above-entitled ordinance be amended to make the following changes effective January 1, 2002:

20.10.01 Council Jurisdiction.

The compensation of the listed classifications under City Council jurisdiction shall be provided in this Chapter.

The rates of pay herein provided shall be effective as of January 1, 2002, except as hereinafter provided, and shall apply to all persons in the employ of the City on or after the enumerated effective date, including those who have since such date retired or have been laid off through no fault or delinquency of such employee, but shall not apply to any employee heretofore separated from the service by voluntary resignation or through fault or delinquency on the part of such employee.

The rates stated herein shall be hourly or annual rates unless stated otherwise.

**AFSCME LOCAL 9 (CAF)
Effective January 1, 2002**

Job Code	FLSA OTC	Classification title	PTS	G	P	3-Month rate	1st Step	2nd Step	3rd Step	4th Step
N2		Engineering Tech I (Seasonal)	268	5	H	11.853	12.610	13.376	15.935	16.732

Adopted. Yeas, 12; Nays none.
Passed December 13, 2002.
Approved December 19, 2002. R.T. Rybak, Mayor.
Attest: S. Ristuben, Asst City Clerk.

W&M/Budget – Your Committee recommends that the proper City officers be authorized to enter into a project funding agreement with the Metropolitan Council to receive \$50,000 for land use planning in the area of the 38th St Light Rail Transit Station.

Your Committee further recommends passage of the accompanying Resolution increasing the Planning Department appropriation to represent the receipt of said funds from the Metropolitan Council.

Adopted. Yeas, 12; Nays none.
Passed December 13, 2002.
Approved December 19, 2002. R.T. Rybak, Mayor.
Attest: S. Ristuben, Asst City Clerk.

**RESOLUTION 2002R-464
By Johnson**

Amending The 2002 General Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by increasing the appropriation in the Planning Department Agency in the Grants - Other Fund (0600-380-3820) by \$50,000 and increasing the revenue source (0600-380-3820 - Source 3240) by \$50,000.

Adopted. Yeas, 12; Nays none.
Passed December 13, 2002.
Approved December 19, 2002. R.T. Rybak, Mayor.
Attest: S. Ristuben, Asst City Clerk.

W&M/Budget – Your Committee recommends approval of the request of Council Member Goodman for reimbursement of attorneys' fees in the amount of \$728.75, payable to Douglas R. Peterson from the Self-Insurance Fund (6900-150-1500-4000).

Adopted. Yeas, 11; Nays none.
Declining to vote: Goodman.
Passed December 13, 2002.
Approved December 19, 2002. R.T. Rybak, Mayor.
Attest: S. Ristuben, Asst City Clerk.

W&M/Budget – Your Committee, to whom was referred back a report regarding allocation of Empowerment Zone (EZ) funds to Siyeza, a frozen and refrigerated food manufacturing company located at 1000 Humboldt Av N, now recommends concurrence with the recommendation of the EZ Executive Committee that said company be granted a loan in the amount of \$164,000 to be used for working capital for the company's operation through 2002 and including \$20,000 to be used for management consultant services, payable from the City Coordinator Agency (0300-840-8460). Proper City staff is authorized to hire said consultant to assist in evaluating the business and the loan is approved with the stipulation that a business management plan will be submitted by December 31, 2002.

Your Committee further recommends that the proper City officers be authorized to execute a contract with Siyeza setting forth the terms and conditions of the loan agreement.

Johnson Lee moved to amend the report by removing the stipulation that the business management plan will be submitted by December 31, 2002 and instead indicating that the plan will be submitted by February 27, 2003. Seconded.

Adopted upon a voice vote.

The report, as amended, was adopted.

Yeas, 8; Nays, 3 as follows:

Yeas - Johnson, Zimmermann, Schiff, Zerby, Lilligren, Johnson Lee, Niziolek, Ostrow.

Nays - Benson, Goodman, Lane.

Absent - Colvin Roy.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

W&M/Budget – Your Committee recommends that the proper City officers be authorized to enter into a contract with Security Specialists, Inc. for providing exclusive event security services at the Minneapolis Convention Center, effective January 1, 2003, at an estimated annual cost of \$400,000, payable from the Convention Center Operations Fund and Agency (0760-MCC), with costs to be offset by estimated revenue in the amount of \$460,000.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 13, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

(Published December 17, 2002)

W&M/Budget – Your Committee recommends concurrence with the recommendation of the New Central Library Implementation Committee Finance Subcommittee that the proper City officers be authorized to execute Amendment No. 1 to the lease agreement with FRM Associates, LLC for the interim central library, amending the agreement to provide for additional space, at an estimated cost of \$400,000 over the term of the lease, payable from the New Central Library Project budget (4400-908-9080)

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

W&M/Budget - Your Committee, having received the recommendations of the Finance Officer regarding options for provision of property insurance for the Minneapolis Convention Center (including the Talmadge Building and the Convention Center Parking Ramp), now recommends that the proper City officers be authorized to accept the quote of Zurich Insurance in the amount of \$336,804 (plus the Minneapolis surcharge) for coverage in year 2003 and authorization to lock in the binder for said coverage. It is further recommended that the City rejects the quote received for terrorism coverage. The cost of the insurance is payable from the Convention Center (0760-MCCD-865A-6080).

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

W&M/Budget - Your Committee, having under consideration establishment of a tax-exempt Post Retirement Health Care Savings Plan to help City employees save money for post retirement health care costs and funded with mandated employee contributions to be negotiated through collective bargaining and City Council action, now recommends establishment of said plan by approval of the following:

a) Adoption of the Internal Revenue Services (IRS) approved Governmental Integral Part Trust developed and administered by the Minnesota State Retirement System (MSRS) on behalf of its public sector entities;

b) Adoption of the City of Minneapolis Health and Dental Expense Reimbursement Plan as required to maintain the tax exempt status of distributions;

c) Authorization for the proper City officers to enter into an agreement with MSRS to provide investment, trustee and administrative services to support implementation and operation of the City of Minneapolis Post Retirement Health Care Savings Plan;

d) Request a Private Letter Ruling from the IRS, and approve \$6,000 for the IRS Fee (payable from the Contingency Fund) to verify proper tax treatment of the Sick Leave Credit Plan and the accrued Sick Leave Benefit Plan defined in City Ordinances (Title 2, Chapter 20, Article 6.20.420 and Article 8.20.550)

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

The **ZONING & PLANNING** Committee submitted the following reports:

Z&P - Your Committee, having under consideration the appeal filed by Jim Graham, for Ventura Village, from the decision of the Planning Commission granting the applications of Project for Pride in Living (PPL) (BZZ-770) for a) variance of required parking from 30 spaces to zero spaces for a two-story office building at 1033 E Franklin Ave; and b) variance of floor area ratio from 1.7 to 2.04, and having conducted a public hearing thereon, now recommends that the appeal be denied, and that the variances be approved, with the condition on approval of the required parking variance that PPL secure shared parking arrangements, by written agreements, for up to 87 spaces, and no less than 30 spaces.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Z&P - Your Committee, having under consideration the appeal filed by Mitch Booth, for Goff Holdings, LLC, from the decision of the Planning Commission denying an application for a parking variance from the required 24 parking spaces to 12 spaces for a mixed-use retail and residential building at 3601 Nicollet Ave S, and in lieu thereof, approved a variance from 24 parking spaces to 19 spaces, subject to approval of the site plan review, and approving the site plan review, and having conducted a public hearing thereon, now recommends that the appeal be granted.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Z&P – Your Committee, having under consideration the recommendation of the Planning Commission to deny the petition of Goff Holdings, LLC (BZZ-885) to rezone the property at 3601 Nicollet Ave S from C1 to the C2 District to permit a mixed-use retail and residential building, now recommends that the petition be granted, notwithstanding the decision of the Planning Commission.

Your Committee further recommends that the Findings of Fact prepared by the City Attorney and on file in the office of the City Clerk be made a part of this report by reference.

Your Committee further recommends passage and summary publication of the accompanying ordinance amending the Zoning Code.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Ordinance 2002-Or-188, amending Title 20, Chapter 521 of the Minneapolis Code of Ordinances relating to *Zoning Code: Zoning Districts and Maps Generally*, rezoning the property at 3601 Nicollet Ave S to the C2 District, was passed December 13, 2002 by the City Council and approved December 19, 2002 by the Mayor. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2002-Or-188

By Schiff

1st & 2nd Readings: 12/13/2002

Amending Title 20, Chapter 521 of the Minneapolis Code of Ordinances relating to Zoning Code: Zoning Districts and Maps Generally.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 521.30 of the above-entitled ordinance be amended by changing the zoning district for the following parcel of land, pursuant to MS 462.357:

A. That part of Lots 43-46, Block 2, Dunsmoors Rearrangement of 2nd Nicollet Avenue Addition (3601 Nicollet Ave S - Plate 25) to the C2 District.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Z&P - Your Committee, having under consideration the appeal of Jim Eischens from the decision of the Board of Adjustment denying the appeal of the Zoning Administrator's decision regarding a notice of violation that a home business operating at 1065 - 25th Ave SE does not comply with the home occupation standards, and having conducted a public hearing thereon, now recommends that the appeal be denied.

Your Committee further recommends that the Findings of Fact prepared by the City Attorney and on file in the office of the City Clerk be made a part of this report by reference.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Z&P - Your Committee, to whom was referred back on 11/8/02 the appeal of Paul Smith (BZZ-779) from the decision of the Planning Commission approving the applications of the Minneapolis Institute of Arts (MIA), 2400 - 3rd Ave S, for a conditional use permit and site plan review for a planned unit development to allow an addition to the museum's west side, and having received additional information and held further discussion thereon, now recommends that said appeal be sent forward without recommendation.

Schiff moved to amend the report by deleting the language, "sent forward without recommendation," and inserting in lieu thereof, "denied, and that the related findings prepared by the Planning Department staff be adopted." Seconded.

Adopted by unanimous consent.

Zimmermann moved to amend the report to include approval of the applications, subject to the following conditions:

a) that the museum reduces the height of the Stevens Ave side of the Atrium Pavilion by 10 feet, which means reduction from 75 feet to 65 feet;

b) that the loading dock and curb cuts be modified to approximately 25 feet 9 inches and 37 feet 7 inches as shown on the MIA's latest proposal dated 11/19/02;

- c) that trash pick up will change from twice a week to twice a month;
- d) the new design will include a 20-yard container that will save on pick-up time for trash and trash will be loaded and unloaded inside closed doors;
- e) all event loading and unloading will occur before 7:30 p.m., subject to an exception for interstate shipments of exhibition materials. MIA will commit to use its best efforts to coordinate interstate shipments to arrive between 7:00 a.m. to 7:00 p.m.;
- f) MIA will pay all costs of installing pedestrian level historic lighting on both sides of Stevens Ave between 24th & 25th, matching the 3rd Ave lighting;
- g) MIA will provide more and larger boulevard trees on the east side of Stevens Ave between 24th & 25th and will widen the tree boulevards on Stevens Ave to facilitate tree plantings subject to the required Public Works and Park Board approvals;
- h) MIA will coordinate and undertake a neighborhood-wide parking evaluation, to be completed by July 1, 2003, which will include the MIA, MCAD, CTC and neighborhood representatives;
- i) a new design will be accepted which will remove valet parking from Stevens Ave and bring it to the museum site with an entry on Stevens Ave and exits to park the vehicles on 3rd Ave, with a reverse pattern on departure. All queuing and 50% of all traffic movement on Stevens will be eliminated. Use of this access by vehicles would be limited exclusively to valet or campus grounds crew;
- j) any additional parking or parking lots in the project area would require a review of the conditional use permit;
- k) that vegetative screening on driveway edges will be increased in size and density, consistent with zoning code requirements.

Seconded.

Adopted upon a voice vote.

The report, as amended, was adopted.

Yeas, 7; Nays, 4 as follows:

Yeas - Johnson, Colvin Roy, Schiff, Benson, Goodman, Lane, Ostrow.

Nays - Zimmermann, Lilligren, Johnson Lee, Niziolek.

Declining to vote - Zerby.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Z&P - Your Committee, to whom was referred an ordinance amending Title 20, Chapter 520 of the Minneapolis Code of Ordinances relating to *Zoning Code: Introductory Provisions*, to amend the definition of "family" to include domestic partnerships, now concurs in the recommendation of the Planning Commission that the related findings be adopted, and that said ordinance be given its second reading for amendment and passage.

Your Committee further recommends summary publication of the above-described ordinance.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Ordinance 2002-Or-189 amending Title 20, Chapter 520 of the Minneapolis Code of Ordinances relating to *Zoning Code: Introductory Provisions*, amending Section 520.160 to amend the definition of "family" to include domestic partnerships as defined in Chapter 142 of the Minneapolis Code of Ordinances, was passed December 13, 2002 by the City Council and approved December 19, 2002 by the Mayor. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2002-Or-189
By Benson, Schiff and Lilligren
Intro & 1st Reading: 8/23/2002
Ref to: Z&P
2nd Reading: 12/13/2002

Amending Title 20, Chapter 520 of the Minneapolis Code of Ordinances relating to the Zoning Code: Introductory Provisions.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That the following definition in Section 520.160 of the above-entitled ordinance be amended to read as follows:

520.160. Definitions. Unless otherwise expressly stated, or unless the context clearly indicates a different meaning, the words and phrases in the following list of definitions shall, for the purposes of this zoning ordinance, have the meanings indicated. All words and phrases not defined shall have their common meaning.

Family. An individual or two (2) or more persons related by blood, marriage, domestic partnership as defined in Chapter 142 of the Minneapolis Code of Ordinances, or adoption, including foster children and domestic staff employed on a full-time basis, living together as a permanent household. This definition of family is established for the purpose of preserving the character of residential neighborhoods by controlling population density, noise, disturbance and traffic congestion, and shall not be applied so as to prevent the city from making reasonable accommodation where the city determines it necessary to afford handicapped persons living together in a permanent household equal access to housing pursuant to the Federal Fair Housing Amendments Act of 1988.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Z&P - Your Committee, to whom was referred an ordinance amending Title 20, Chapter 551 of the Minneapolis Code of Ordinances relating to *Zoning Code: Overlay Districts*, to establish a density bonus related to the number of dwelling units and the maximum floor area ratio in the Industrial Living Overlay District when all required parking is provided within the building, entirely below-grade or in a parking garage of at least two levels, now concurs in the recommendation of the Planning Commission that the related findings be adopted, and that said ordinance be given its second reading for amendment and passage.

Your Committee further recommends summary publication of the above-described ordinance.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Ordinance 2002-Or-190 amending Title 20, Chapter 551 of the Minneapolis Code of Ordinances relating to *Zoning Code: Overlay Districts*, amending Section 551.380 by deleting the bonus for affordable housing, and amending Section 551.385 by adding thereto a new section, "Density bonuses" to add a bonus for enclosed parking and for affordable housing, was passed December 13, 2002 by the City Council and approved December 19, 2002 by the Mayor. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2002-Or-190
BySchiff

Intro & 1st Reading: 10/11/2002

Ref to: Z&P

2nd Reading: 12/13/2002

Amending Title 20, Chapter 551 of the Minneapolis Code of Ordinances relating to Zoning Code: Overly Districts.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 551.380 of the above-entitled ordinance be amended to read as follows:

551.380. Minimum lot area requirements. ~~(a) *In general.* Lot area requirements for residential uses in the IL Overlay District shall be a minimum of nine hundred (900) square feet of lot area per dwelling unit and a minimum of seven hundred fifty (750) square feet per rooming unit, except that in no instance shall the lot area be less than five thousand (5,000) square feet.~~

~~(b) *Bonus for affordable housing.* The maximum number of dwelling units and the maximum floor area ratio of new cluster developments and new multiple-family dwellings of five (5) units or more may be increased by twenty (20) percent if at least twenty (20) percent of the dwelling units meet the definition of affordable housing.~~

Section 2. That Chapter 551 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 551.385 to read as follows:

551.385. Density bonuses. ~~(a) *Bonus for enclosed parking.* The maximum number of dwelling units and the maximum floor area ratio of multiple-family dwellings may be increased by twenty (20) percent if all required parking is provided within the building, entirely below grade, or in a parking garage of at least two (2) levels.~~

~~(b) *Bonus for affordable housing.* The maximum number of dwelling units and the maximum floor area ratio of new cluster developments and new multiple-family dwellings of five (5) units or more may be increased by twenty (20) percent if at least twenty (20) percent of the dwelling units meet the definition of affordable housing.~~

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Z&P – Your Committee recommends concurrence in the recommendation of the Planning Commission granting the petition of Hennepin County (BZZ-933-941) to rezone the following properties to create consistent zoning throughout the Humboldt Greenway Project, a Planned Residential Development consisting of approximately 202 dwelling units, and adopting the related findings prepared by the Planning Department:

- a) 4900 Humboldt Ave N from C1 to the R4 District;
- b) 4901 Humboldt Ave N from C1 to the R4 District;
- c) 5000-5062 (even) Irving Ave N from R1A to the R4 District;
- d) 5001, 5003 and 5007 Humboldt Ave N to the R4 District;
- e) 5001, 5005 and 5009 Dupont Ave N and 5002, 5006 and 5010 Emerson Ave N from R1A to the R4 District;
- f) 4949 and 4953 Dupont Ave N from R1A to the R4 District;
- g) 5001, 5007 and 5011 Emerson Ave N and 5000, 5004 and 5008 Fremont Ave S from R1A to the R4 District;
- h) 4947, 4951 and 4955 Emerson Ave N from R1A to the R4 District;
- i) 5001, 5005 and 5009 Fremont Ave N and 5000, 5004 and 5008 Girard Ave N from R1A to the R4 District;

j) 4945, 4949 and 4953 Fremont Ave N and 4944, 4948 and 4952 Girard Ave N from R1A to the R4 District.

Your Committee further recommends passage and summary publication of the accompanying ordinance amending the Zoning Code.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Ordinance 2002-Or-191, amending Title 20, Chapter 521 of the Minneapolis Code of Ordinances relating to *Zoning Code: Zoning Districts and Maps Generally*, rezoning the properties at 4900 Humboldt Ave N; 4901 Humboldt Ave N; 5000-5062 (even) Irving Ave N; 5001, 5003 and 5007 Humboldt Ave N; 5001, 5005 and 5009 Dupont Ave N and 5002, 5006 and 5010 Emerson Ave N; 4949 and 4953 Dupont Ave N; 5001, 5007 and 5011 Emerson Ave N and 5000, 5004 and 5008 Fremont Ave S; 4947, 4951 and 4955 Emerson Ave N; 5001, 5005 and 5009 Fremont Ave N and 5000, 5004 and 5008 Girard Ave N; 4945, 4949 and 4953 Fremont Ave N and 4944, 4948 and 4952 Girard Ave N to the R4 District, was passed December 13, 2002 by the City Council and approved December 19, 2002 by the Mayor. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2002-Or-191
By Schiff

1st & 2nd Readings: 12/13/2002

Amending Title 20, Chapter 521 of the Minneapolis Code of Ordinances relating to Zoning Code: Zoning Districts and Maps Generally.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 521.30 of the above-entitled ordinance be amended by changing the zoning district for the following parcel of land, pursuant to MS 462.357:

A. That part of Lots 15 and 16, Block 9, Camden Bungalow Addition to Minneapolis (4900 Humboldt Ave N - Plate 2) to the R4 District.

B. That part of the Northeast Quarter of Section 11, Township 118, Range 21, described as follows: Beginning at the southeast corner of said Northeast Quarter; thence northerly along the easterly line of said Northeast Quarter a distance of 165 feet, more or less, to the intersection with the easterly extension of the southerly line of Block 6, "Shingle Creek Addition"; thence westerly along said southerly line and its extension to the centerline of the alley dedicated to the public in said Block 6; thence southerly along the southerly extension of said centerline to the southerly line of said Northeast Quarter; thence easterly along said southerly line to the point of beginning (4901 Humboldt Ave N - Plate 1) to the R4 District.

C. That part of Lots 4 through 6 of Block 1, Shingle Creek Addition and Lots 13 through 24 of Block 6 of Thorpe Bros Maple Leaf Addition to Minneapolis (5000-5062 (even) Irving Ave N - Plate 1) to the R4 District.

D. That part of Lots 1 through 3 of Block 1, Shingle Creek Addition (5001, 5003, and 5007 Humboldt Ave N - Plate 1) to the R4 District.

E. That part of Lots 12 through 17 of Block 5, Camden Bungalow Addition to Minneapolis (5001, 5005 and 5009 Dupont Ave N; and 5002, 5006 and 5010 Emerson Ave N - Plate # 2) to the R4 District.

F. That part of Lots 1 through 3, 26, and 28 of Block 12, Camden Bungalow Addition to Minneapolis (4949 and 4953 Dupont Ave N; and 4946 and 4954 Emerson Ave N - Plate 2) to the R4 District.

G. That part of Lots 12 through 17 of Block 6, Camden Bungalow Addition to Minneapolis (5001, 5007 and 5011 Emerson Ave N; and 5000, 5004 and 5008 Fremont Ave N - Plate 2) to the R4 District.

H. That part of Lots 1, 2, 3, 26, 27, and 28 of Block 11, Camden Bungalow Addition to Minneapolis (4947, 4951 and 4955 Emerson Ave N; and 4944, 4948 and 4952 Fremont Ave N - Plate 2) to the R4 District.

I. That part of Lots 12 through 17 of Block 7, Camden Bungalow Addition to Minneapolis (5001, 5005, and 5009 Fremont Ave N; and 5000, 5004 and 5008 Girard Ave N - Plate 2) to the R4 District.

J. That part of Lots 1, 2, 3, 26, 27 and 28 of Block 10, Camden Bungalow Addition to Minneapolis (4945, 4949 and 4953 Fremont Ave N; and 4944, 4948 and 4952 Girard Ave N - Plate 2) to the R4 District.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

MOTIONS

Johnson, Chair of the Ways & Means/Budget Committee, moved that the regular payrolls for all City employees under City Council jurisdiction for the month of January, 2003, approved and ordered paid subject to audit by the Finance Officer. Seconded.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Lane moved to waive the 14-day filing time as required by Chapter 455 of the Minneapolis Code of Ordinances for applicant Lora Weinstein for a residential block event to be held Tuesday, December 17, 2002, between the hours of 6:00 p.m. and 10:00 p.m. on Emerson Avenue South between 46th and 47th Streets West. Seconded.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Ostrow moved to appoint Council Member Barret Lane as the City Council representative on the Municipal Building Commission.

Ostrow further moved that the 2002 City Council Committee Schedule and Members approved by the Council January 2, 2002, as amended, be further amended with the appointment of Council Member Dan Niziolek as Chair of the Public Safety & Regulatory Services Committee.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Johnson introduced the subject matter of an Ordinance amending Title 13 of the Minneapolis Code of Ordinances relating to *City Planning Department*, which was given its first reading and referred to the Public Safety & Regulatory Services Committee (Requiring a general business license for a retail sales business not otherwise licensed by the City of the State).

Schiff introduced the subject matter of an Ordinance amending Title 20, Chapter 535 of the Minneapolis Code of Ordinances relating to *Zoning Code: Regulations of General Applicability*, which was given its first reading and referred to the Zoning & Planning Committee (Amending Table 535-1 Permitted Obstructions in Required Yards).

Schiff moved that Resolution 2002R-360 entitled "Vacating a portion of Oliver Avenue North" relating to the application of Plymouth Christian Youth Center (#BZZ-741) to allow construction of a middle school and administrative offices at 2202, 2206 and 2210 Oliver Avenue North, passed by the Council October 11, 2002, be rescinded due to an incorrect legal description.

Schiff further moved passage and summary publication of the accompanying resolution replacing Resolution 2002R-360.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

RESOLUTION 2002R-465

By Schiff

Rescinding Resolution No. 2002R-360 entitled, "Vacating a portion of Oliver Avenue North," passed October 11, 2002.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution be and is hereby rescinded.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Resolution 2002R-466, vacating a portion of Oliver Avenue North from 23rd Avenue North to West Broadway, was passed December 13, 2002 by the City Council and approved December 19, 2002 by the Mayor. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2002R-466

By Schiff

Vacating a portion of Oliver Avenue North from 23rd Avenue North to West Broadway.

Resolved by The City Council of The City of Minneapolis:

That all that part of Oliver Avenue North and legally described as That part of Oliver Avenue North which lies northeasterly and easterly of the following described line hereinafter know as "Line 1" and westerly of a line drawn parallel with and 36.5 feet westerly of the following described line hereinafter know as "Line 2":

Said "Line 1": Beginning at the most westerly corner of lot 23, Block 21, Forest Heights, according to the recorded plat thereof, Hennepin County, Minnesota; thence southeasterly along the southwesterly line of said Lot 23, and its southeasterly extension, 71.60 feet, to a point of compound curvature (said southwesterly line is a curve concave to the southwest having a radius of 1213.90 feet, central angle of 03 degrees 22 minutes 47 seconds and a chord bearing of South 44 degrees 22 minutes 11 seconds East); thence southerly 58.53 feet, along a compound curve concave to the west having a radius of 60.00 feet and a central angle of 55 degrees 53 minutes 48 seconds to a point on the westerly line of Lot 28, Block 23, Forest Heights, distant 36.11 feet northerly, as measured along said westerly line of said Lot 28, from the southwest corner of said Lot 28 and said line there terminating;

Said "Line 2": Beginning at the point of intersection of the center line of Penn Avenue North with the center line of West Broadway; thence run southeasterly along the centerline of West Broadway for 279.02 feet; thence deflect to the right at an angle of 04 degrees 20 minutes 55 seconds for 111.21 feet; thence deflect to the left at an angle of 03 degrees 59 minutes 22 seconds for 335.30 feet; thence deflect to the right on a 23 degrees 20 minute 47 second curve (delta angle 44 degrees 11 minutes 26 seconds) for 189.28 feet; thence on tangent to said curve 68.12 feet and there terminating, is hereby vacated except that such vacation shall not affect the existing easement right and authority

of Reliant Energy Minnegasco and Xcel Energy, their successors and assigns, to enter upon that portion of the aforescribed street which is described in regard to each of said corporations as follows, to wit:

As to Reliant Energy Minnegasco: the northwesterly 40.00 feet of that part of Oliver Avenue North which lies northeasterly of the southeasterly extension of the Northeasterly right-of-way line of 23rd Avenue North and which lies westerly of the westerly right-of-way line of Broadway Avenue North;

As to Xcel Energy: the 25 foot wide strip for the electrical distribution facilities as currently located across Oliver Avenue North between the easterly extension of a line 26 feet north from and parallel to the south line of Lot 26, Block 23, Forest Heights Addition to Minneapolis; and the West corner of Lot 2, Block 21, Forest Heights Addition to Minneapolis, Hennepin County, Minnesota, to operate, maintain, repair, alter, inspect or remove its above-described utility facilities and said easement right and authority is hereby expressly reserved to each of the above-named corporations, and no other person or corporation shall have the right to fill, excavate, erect buildings or other structures, plant trees or perform any act which would interfere with or obstruct access to said public alley upon or within the above-described areas without first obtaining the written approval of the corporations having utility facilities located within the area involved authorizing them to do so.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Lane moved to introduce the subject matter of amending the City Council Rules by deleting in its entirety "Rule 4. Committee of the Whole" and referral to the Rules Committee.

Adopted. Yeas, 10; Nays, 2 as follows:

Yeas - Johnson, Colvin Roy, Zimmermann, Schiff, Zerby, Niziolek, Benson, Goodman, Lane, Ostrow.

Nays - Lilligren, Johnson Lee.

RESOLUTIONS

RESOLUTION 2002R-467

By Lilligren

Amending Resolution No, 2002R-455 entitled "Establishing precincts and polling places and appointing election judges for the special election for Council Member of the Third Ward", passed November 27, 2002.

Resolved by The City Council of The City of Minneapolis:

That Resolution No. 2002R-455 passed November 27, 2002, be amended to further revise the precinct boundaries and designations in the Third Ward as follows:

That the precinct boundaries be changed in Ward 3, Precinct 8, to split Precinct 8 into Precinct 8A and 8B, and that the boundaries of Ward 3, Precinct 6 be further changed as shown on the map in Petition No.268433 on file in the office of the City Clerk, to conform with Minnesota State law requirements that precinct lines not split legislative lines.

That the polling places for Ward 3, Precinct 8A and 8B be a double polling place and that name of the polling place for Ward 3, Precinct 10 be changed from Bethlehem Lutheran Church to River of Life Lutheran Church at the same address.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Colvin Roy, Ostrow, Zerby, Johnson, Johnson Lee, Zimmermann, Goodman, Lilligren, Schiff, Niziolek, Benson and Lane offered a Resolution offering a moment of silence in honor of the passing of Edward C. Solomon and of his many years of service to the City and young people of Minneapolis.

Adopted. Yeas, 12; Nays none.
Passed December 13, 2002.
Approved December 19, 2002. R.T. Rybak, Mayor.
Attest: S. Ristuben, Asst City Clerk.
(Not published. See Resolution 2002R-468 on file in the office of the City Clerk.)

The following is the complete text of the unpublished resolution.

RESOLUTION 2002R-468

By Colvin Roy, Ostrow, Zerby, Johnson, Johnson Lee, Zimmermann, Goodman, Lilligren, Schiff, Niziolek, Benson, Lane

Offering a moment of silence in honor of the passing of Edward C. Solomon and of his many years of service to the City and young people of Minneapolis.

Whereas, Edward C. (Ed) Solomon devoted over 30 years to coaching Minneapolis youth in the parks; and

Whereas, the Park Board staff who looked for uniforms or buses for the teams knew they could take Ed at his word when he said, "if the kids need it, get it and I'll find the money"; and

Whereas, he took this concern for our youth with him to the Minneapolis Park and Recreation Board, where he served as a Commissioner representing Park District Five from 1996 to 2002; and

Whereas, Commissioner Solomon wrote that ". . . our greatest strength as well as challenge is the development of recreation programs that serve youth;" and

Whereas, during his service, Commissioner Solomon worked on many projects, citing the new playgrounds built at Keewaydin, Lake Hiawatha and Hiawatha School Parks and the improvements at Hiawatha Golf Course that include a First Tee site to offer more opportunities for Minneapolis children to be involved in positive recreational programs as important achievements; and

Whereas, he was particularly proud of the Leonard H. Neiman Athletic Complex that will provide our youth sports teams with first class playing fields; and

Whereas, the memory and tradition of Edward C. Solomon will be continued by the thousands of young people he touched through his work with the Minneapolis Park System;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That, on behalf of the residents of the City of Minneapolis, we extend to his wife Harriet and his children and grandchildren our gratitude for the lifetime achievements of Edward C. Solomon and honor the memory of Edward C. Solomon with a moment of silence.

Adopted. Yeas, 12; Nays none.
Passed December 13, 2002.
Approved December 19, 2002. R.T. Rybak, Mayor.
Attest: S. Ristuben, Asst City Clerk.

UNFINISHED BUSINESS

PS&RS - Your Committee, to whom was referred ordinances amending Title 3, Chapter 47 of the Minneapolis Code of Ordinances relating to *Air Pollution and Environmental Protection: Minneapolis Air Quality Management Authority* and Title 13, Chapter 287 relating to *Licenses and Business Regulations: Filling Stations and Bulk Oil Plants*, requiring that all existing gasoline stations install and use a Stage 1 Vapor Recovery System on gasoline storage tanks by January 2, 2007, and having held a public hearing thereon, now recommends that said ordinances be given their second reading for amendment and passage with summary publication.

Benson moved to substitute two new ordinances for the above-mentioned ordinances.
Seconded.

Adopted upon a voice vote.
The report, with substituted ordinances, was adopted.
Yeas, 12; Nays none.

Passed December 13, 2002.
Approved December 19, 2002. R.T. Rybak, Mayor.
Attest: S. Ristuben, Asst City Clerk.

Ordinance 2002-Or-192 amending Title 3, Chapter 47 of the Minneapolis Code of Ordinances relating to *Air Pollution and Environmental Protection: Minneapolis Air Quality Management Authority*, to require all existing gasoline stations to install and use a Stage I Vapor Recovery System on storage tanks by January 1, 2007, was passed December 13, 2002 by the City Council and approved December 19, 2002 by the Mayor. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2002-Or-192

By Benson, Niziolek, Johnson, Johnson Lee, Zerby, Lilligren, Zimmermann and Colvin Roy

Intro & 1st Reading: 10/25/2002

Ref to: PS&RS

2nd Reading: 12/13/2002

Amending Title 3, Chapter 47 of the Minneapolis Code of Ordinances relating to Air Pollution and Environmental Protection: Minneapolis Air Quality Management Authority.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 47.10 of the above-entitled ordinance be amended by deleting and adding definitions in alphabetical sequence to read as follows:

47.10. Definitions. For the purposes of this chapter, the terms defined in this section shall have the following meanings:

~~CARB—California Air Resources Board. 1001 "I" Street, P.O. Box 2815, Sacramento, CA 95812. www.arb.ca.gov~~

Delivery vessel. A vessel that stores and transports gasoline for delivery to a gasoline filling station.

Gasoline. A petroleum or a petroleum-based substance that is motor gasoline, or any grade of gasohol, and is typically used in the operation of a motor engine, excluding aviation gasoline, No. 1 or 2 diesel fuel.

Gasoline filling station. A business engaged in the dispensing, handling or sale of gasoline or other fuels to the public.

Gasoline storage tank. A permanent vessel for storing gasoline at a gasoline filling station for the purpose of dispensing, handling or sale of gasoline.

Simultaneous fueling location. The location at which a fueling device delivers or dispenses fuel to a single vehicle.

Stage I vapor recovery system. The control or management of hydrocarbons, volatile organic compound vapors and other gases during the transfer of gasoline from the delivery vessel to the gasoline filling station's gasoline storage tanks.

Stage II vapor recovery. The control or management of hydrocarbon and volatile compound vapors and gases during the transfer of gasoline from the gasoline filling station's gasoline storage tank to the vehicle's gasoline tank.

Vapor recovery equipment for gasoline filling stations. All equipment that is part of the vapor recovery system used by a gasoline filling station to collect and manage gasoline vapors generated from refueling vehicle gasoline tanks, gasoline storage tanks and portable fuel containers including, but not limited to, dispensing equipment, couplers, fittings, processors, control boards, gauges, and monitors.

Vapor recovery system. A vapor gathering system capable of collecting and managing hydrocarbon and Volatile Organic Compound (VOC) vapors and gases so as to prevent the vapors and gases from being emitted into the ambient air or atmosphere. The system's tank gauging and sampling devices are gas-tight except when gauging or sampling is taking place. A vapor recovery system may include stage I or stage II vapor recovery.

Section 2. That Chapter 47 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 47.280 to read as follows:

47.280. Approved vapor recovery systems. (a) An approved stage I vapor recovery system shall recover a minimum of ninety-five (95) percent of the hydrocarbons, volatile organic compound vapors and other gases during the transfer of gasoline from a delivery vessel to a gasoline filling station's gasoline storage tank when it is used and maintained in the manner intended by the manufacturer.

(b) A system is an approved stage I vapor recovery system for the purposes of this chapter if all of the following requirements are met:

- (1) The gasoline filling station which is installing the system submits system specifications from the manufacturer or fabricator. System specifications shall include details as to the design of the vapor recovery system, its installation and maintenance requirements and other information necessary to verify system performance.
- (2) A licensed registered professional engineer certifies to the authority, as constituted pursuant to Chapter 47 of this Code, that the proposed stage I vapor recovery system as installed will at all times recover a minimum of ninety-five (95) percent of the hydrocarbons, volatile organic compound vapors and other gases during the transfer of gasoline from a delivery vessel to a gasoline filling station's gasoline storage tank when the system is used and maintained in the manner intended by the manufacturer.
- (3) The authority determines that the proposed system as installed will recover a minimum of ninety-five (95) percent of the hydrocarbons, volatile organic compound vapors and other gases during the transfer of gasoline from a delivery vessel to a gasoline filling station's gasoline storage tank when it is used and maintained in the manner intended by the manufacturer.
- (4) The authority delivers to the applicant its' written determination that the proposed system as installed will recover a minimum of ninety-five (95) of the hydrocarbons, volatile organic compound vapors and other gases during the transfer of gasoline from a delivery vessel to a gasoline filling station's gasoline storage tank when it is used and maintained in the manner intended by the manufacturer.

Section 3. That Chapter 47 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 47.290 to read as follows:

47.290. Recovery of vapors during transfer and delivery of gasoline to a tank equipped with stage I vapor recovery. No person shall transfer or knowingly permit the transfer of gasoline from a delivery vessel to a gasoline filling station's gasoline storage tank without using an approved stage I vapor recovery system as defined by this chapter if the gasoline filling station's storage tank is equipped with an approved stage I vapor recovery system or without fully using the existing approved stage I vapor recovery system in the manner intended by the manufacturer or fabricator.

Section 4. That Chapter 47 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 47.300 to read as follows:

47.300. Conversion to stage I vapor recovery systems required. No person shall transfer or knowingly permit the transfer of gasoline from a delivery vessel to a gasoline filling station's gasoline storage tank on January 1, 2007, or any date thereafter without use of an approved stage I vapor recovery system, as defined by this chapter, or without fully using the approved stage I vapor recovery system in the manner intended by the manufacturer or fabricator.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: S. Ristuben, Asst City Clerk.

Ordinance 2002-Or-193 amending Title 13, Chapter 287 of the Minneapolis Code of Ordinances relating to *Licenses and Business Regulations: Filling Stations and Bulk Oil Plants*, to require all existing gasoline stations to install and use a Stage I Vapor Recovery System on storage tanks by January 1, 2007, was passed December 13, 2002 by the City Council and approved December 19, 2002 by the Mayor. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2002-Or-193

By Benson, Niziolek, Johnson, Johnson Lee, Zerby, Lilligren, Zimmermann and Colvin Roy

Intro & 1st Reading: 10/25/2002

Ref to: PS&RS

2nd Reading: 12/13/2002

Amending Title 13, Chapter 287 of the Minneapolis Code of Ordinances relating to Licenses and Business Regulations: Filling Stations and Bulk Oil Plants.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 287.05 of the above-entitled ordinance be amended by deleting and adding definitions in alphabetical sequence to read as follows:

287.05. Definitions. As used in this chapter, unless otherwise indicated, the following terms are defined as follows:

~~CARB—California Air Resources Board, 1001 “I” Street, P.O. Box 2815, Sacramento, CA 95812. www.arb.ca.gov~~

Delivery vessel. A vessel that stores and transports gasoline for delivery to a gasoline filling station.

Gasoline. A petroleum or a petroleum-based substance that is motor gasoline, or any grade of gasohol, and is typically used in the operation of a motor engine, excluding aviation gasoline, No. 1 or 2 diesel fuel.

Gasoline storage tank. A permanent vessel for storing gasoline at a gasoline filling station for the purpose of dispensing, handling or sale of gasoline.

Stage I vapor recovery system. The control or management of hydrocarbons, and volatile organic compound vapors and other gases during the transfer of gasoline from the ~~stage I vapor recovery system~~ delivery vessel to the gasoline filling station's gasoline storage tanks.

Section 2. That Section 287.110 of the above-entitled ordinance be amended to read as follows:

287.110. Stage I vapor recovery system required for all new gasoline storage tanks at filling stations—requirement of use. ~~All gasoline filling stations established after January 1, 2002, must install and use a stage I vapor recovery system. Each gasoline storage tank installed at a gasoline filling station after January 1, 2003, must be equipped with an approved stage I vapor recovery system as defined in this chapter. No licensed gasoline filling station or any operator or employee thereof shall knowingly permit the transfer of gasoline from a delivery vessel to a gasoline filling station storage tank that has been equipped with an approved stage I vapor recovery system without the full use of the approved stage I vapor recovery system in the manner reasonably intended by the manufacturer or fabricator of the stage I vapor recovery system.~~

Section 3. That Section 287.120 of the above-entitled ordinance be amended to read as follows:

287.120 287.170. Denial, suspension or revocation. A gasoline filling station or bulk oil plant license may be denied, suspended, revoked or renewal refused by the city council for any of the following reasons:

- (1) Violation of any federal, state or local law.
- (2) Violation of any provision of the building, zoning, fire or health codes of the city.
- (3) Failure to obtain permits required by the Minneapolis Fire Department.
- (4) Failure to comply with orders issued by the Minneapolis Department of Licenses and Consumer Services.
- (5) For other good cause shown which renders the licensee or license applicant unfit to hold a filling station or bulk oil plant license.

Section 4. That Chapter 287 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 287.120 to read as follows:

287.120. Approved vapor recovery systems. (a) An approved stage I vapor recovery system shall recover a minimum of ninety-five (95) percent of the hydrocarbons, volatile organic compound vapors and other gases during the transfer of gasoline from a delivery vessel to a gasoline filling station's gasoline storage tank when it is used and maintained in the manner intended by the manufacturer.

(b) A system is an approved stage I vapor recovery system for the purposes of this chapter if all of the following requirements are met:

- (1) The gasoline filling station which is installing the system submits system specifications from the manufacturer or fabricator. System specifications shall include details as to the design of the vapor recovery system, its installation and maintenance requirements and other information necessary to verify system performance.
- (2) A licensed registered professional engineer certifies to the authority, as constituted pursuant to Chapter 47 of this Code, that the proposed stage I vapor recovery system as installed will at all times recover a minimum of ninety-five (95) percent of the hydrocarbons, volatile organic compound vapors and other gases during the transfer of gasoline from a delivery vessel to a gasoline filling station's gasoline storage tank when the system is used and maintained in the manner intended by the manufacturer.
- (3) The authority determines that the proposed system as installed will recover a minimum of ninety-five (95) percent of the hydrocarbons, volatile organic compound vapors and other gases during the transfer of gasoline from a delivery vessel to a gasoline filling station's gasoline storage tank when it is used and maintained in the manner intended by the manufacturer.
- (4) The authority delivers to the applicant its' written determination that the proposed system as installed will recover a minimum of ninety-five (95) percent of the hydrocarbons, volatile organic compound vapors and other gases during the transfer of gasoline from a delivery vessel to a gasoline filling station's gasoline storage tank when it is used and maintained in the manner intended by the manufacturer.

Section 5. That Chapter 287 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 287.130 to read as follows:

287.130. Conversion to stage I vapor recovery systems required. Each gasoline storage tank, regardless of date of installation, being used by a gasoline filling station licensed in the city of Minneapolis on January 1, 2007, or any date thereafter must be equipped with an approved stage I vapor recovery system as defined in this chapter. On January 1, 2007, or any date thereafter, no licensed gasoline filling station or any operator or employee thereof shall knowingly permit the transfer of gasoline from a delivery vessel to a gasoline filling station's storage tank without the full use of an approved stage I vapor recovery system in the manner reasonably intended by the manufacturer or fabricator of the approved stage I vapor recovery system.

Section 6. That Chapter 287 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 287.140 to read as follows:

287.140. Notice of installation. At least three business days prior to installation of a stage I vapor recovery system at a gasoline filling station, the operator of the gasoline filling station shall give notice to the Minneapolis department of licenses and consumer services of the scheduled installation so that an inspector can, if desired by the department, be present to monitor compliance with this Code.

Section 7. That Chapter 287 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 287.150 to read as follows:

287.150. Reporting required. Each gasoline filling station that has installed a stage I vapor recovery system as defined in this chapter shall report in writing to the Minneapolis department of licenses and consumer services that the system has been installed. The report shall be in a form approved by the department of licenses and consumer services and shall include a copy of the receipts for the work and documentation as to the type of system installed and the precise location thereof on the lot. The report shall be filed within forty-five (45) days of completion of installation.

Section 8. That Chapter 287 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 287.160 to read as follows:

287.160. Delivery vessel compliance. Any delivery vessel which is used as part of the transfer of gasoline from the delivery vessel to a gasoline filling station's gasoline storage tank shall be able to comply with the test method specified in 40 C.F.R. Part 63, subp. R, § 63.425(e). If the Minneapolis Air Quality Management Authority shall have any reason to believe that a delivery vessel used or attempted to be used for such a gasoline transfer cannot comply with the test specified in 40 C.F.R. Part 63, subp. R, § 63.425(e), then the air quality management authority may request that the operator of

the delivery vessel demonstrate the ability of the delivery vessel to comply with the test method specified in 40 C.F.R. Part 63, subp. R, § 63.425(e). Failure to meet the test specified in 40 C.F.R. Part 63, subp. R, § 63.425(e) shall be a violation of this section.

Adopted. Yeas, 12; Nays none.

Passed December 13, 2002.

Approved December 19, 2002. R.T. Rybak, Mayor.

Attest: M. Keefe, City Clerk.

Ostrow moved that the meeting be adjourned to Room 315 City Hall immediately following the Minneapolis Community Development Agency Board of Commissioners meeting to consider the following:

- a) *Johnson and Siegel, et al. vs. City of Minneapolis and MCDA*
- b) *City of Minneapolis and MCDA vs. Northside Economic Development Council, Robert Woods, Charles Graham, and James Stroud, individually and in their official capacities*
- c) *Swierczek & Slatoski vs. City of Minneapolis*

Seconded.

Adopted by unanimous consent.

Room 315 City Hall

Minneapolis, Minnesota

December 13, 2002 - 12:02 p.m.

The Council met pursuant to adjournment.

President Ostrow in the Chair.

Present - Council Members Johnson, Colvin Roy, Zimmermann, Schiff, Zerby, Lilligren, Benson, Goodman, Lane, Ostrow.

Absent - Johnson Lee, Niziolek.

Michael Norton, Deputy City Attorney, stated that this meeting may, upon a proper motion, be closed for the purpose of discussing attorney-client privileged matters involving the following:

- a) *Johnson and Siegel, et al. vs. City of Minneapolis and MCDA*
- b) *City of Minneapolis and MCDA vs. Northside Economic Development Council, Robert Woods, Charles Graham, and James Stroud, individually and in their official capacities*
- c) *Swierczek & Slatoski vs. City of Minneapolis*

Lilligren moved that the meeting be closed for the purpose of consideration of the above issues pursuant to the Deputy City Attorney's statement. Seconded.

Adopted upon a voice vote.

The meeting was closed at 12:08 p.m.

Tim Skarda, Assistant City Attorney, summarized the subject matter of *Swierczek & Slatoski vs. City of Minneapolis* from 12:08 p.m. to 12:36 p.m.

Council Members present: Johnson, Colvin Roy, Zimmermann, Schiff (Out at 12:34), Zerby, Lilligren (Out at 12:36), Johnson Lee (In at 12:12; Out at 12:26), Benson, Goodman (Out at 12:34), Lane, Ostrow.

Absent - Niziolek.

Also present - Michael Norton, Deputy City Attorney; Jim Moore and Susan Trammel, Assistant City Attorneys; Robert Olson, Police Chief; Steve Ristuben, Assistant City Clerk; Jan Hrcir, City Clerk's office.

Jim Moore, Assistant City Attorney, summarized the subject matter of *Johnson and Siegel, et al. vs. City of Minneapolis* lawsuit from 12:36 p.m. to 12:47 p.m.

Council Members present: Johnson, Colvin Roy, Zimmermann, Zerby, Lilligren (In at 12:41), Johnson Lee (In at 12:42), Benson, Goodman (In at 12:40), Lane, Ostrow.

Absent - Schiff, Niziolek.

Also present - Michael Norton, Steve Ristuben and Jan Hrcir.

Susan Trammel, Assistant City Attorney, summarized the subject matter of *City of Minneapolis and MCDA vs. Northside Economic Development Council, Robert Woods, Charles Graham, and James Stroud, individually and in their official capacities* from 12:47 p.m. to 1:10 p.m.

Council Members present: Johnson, Colvin Roy, Zimmermann, Zerby, Lilligren, Johnson Lee, Benson, Lane, Ostrow.

Absent - Schiff, Niziolek.

Also present - Michael Norton, Gaynell Schendel, Grants and Special Projects; Steve Ristuben, and Jan Hrcir.

The closed portion of the meeting was tape recorded with the tape on file in the office of the City Clerk.

Lilligren moved to adjourn. Seconded.

Adopted upon a voice vote.

Adjourned.

Steven J. Ristuben,
Assistant City Clerk.

Created 12/17/2002;
Modified 12/20/2002;
Corrected 01/30/2003